

# **EXHIBIT 30**

**M.H., a minor v. COUNTY OF ALAMEDA**

**DEPOSITION OF**  
**DEPUTY MATTHEW AHLF**  
**CONDENSED TRANSCRIPT**

June 6, 2012

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## DEPOSITION OF DEPUTY MATTHEW AHLF

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UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

M.H., a minor, through his  
Guardian Ad Litem, Michelle  
Henshaw, JOSEPH HARRISON, KRYSTLE  
HARRISON, MARTIN HARRISON, JR.,  
and TIFFANY HARRISON, all CASE NO. C11-2868  
Individually and as Co-Successors CW  
in Interest of Decedent MARTIN  
HARRISON,  
Plaintiffs,  
-vs-  
COUNTY OF ALAMEDA, a municipal  
corporation; SHERIFF GREGORY J.  
AHERN, in his individual and  
official capacities; DEPUTIES  
MATTHEW AHLF, ALEJANDRO VAL VERDE,  
JOSHUA SWETNAM, ROBERTO MARTINEZ,  
ZACHARY LITVINCHUK, RYAN MADIGAN,  
MICHAEL BARENO, FERNANDO  
ROJAS-CASTANEDA, SHAWN SOBRERO,  
SOLOMON UNUBUN, and DOES 1-20,  
individually, jointly and  
severally,

Defendants.

## DEPOSITION OF DEPUTY MATTHEW AHLF

Taken before JOAN GRIER  
Certified Shorthand Reporter  
State of California  
C.S.R. License No. 8958

June 6, 2012

## 1 DEPOSITION OF DEPUTY MATTHEW AHLF

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3 Pursuant to Notice of Taking Deposition, and on  
4 Wednesday, June 6, 2012, at the hour of 1:07 p.m., at LAW  
5 OFFICES OF HADDAD & SHERWIN, 505 Seventeenth Street,  
6 Oakland, California, before me, JOAN GRIER, Certified  
7 Shorthand Reporter, personally appeared DEPUTY MATTHEW  
8 AHLF, produced as a witness in the above-entitled action,  
9 who, having been first duly sworn, was thereupon examined  
10 as a witness to said action.

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## 13 APPEARANCES

14  
15 Michael J. Haddad, Attorney at Law, HADDAD &  
16 SHERWIN, 505 17th Street, Oakland, California 94612, was  
17 present on behalf of the plaintiffs.

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19 John L. Burris, Attorney at Law, LAW OFFICES OF  
20 JOHN L. BURRIS, 7677 Oakport Street, Suite 1120, Oakland,  
21 California 94621, was present on behalf of the plaintiffs.

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## 1 I N D E X

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4 Deposition of DEPUTY MATTHEW AHLF5  
6 Page7  
8 Examination by:

9  
10 MR. HADDAD 5  
11 MR. BURRIS 162  
12 MR. HADDAD 194

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15 Plaintiffs' Exhibits

16  
17 1 Alameda County Sheriff's Office General 21  
Order No. 1.05; 14 pages  
18  
19 2 Alameda County Sheriff's Office Intensive 64  
Observation Log, 8/16/10; 1 page  
20  
21 3 Alameda County Sheriff's Office Personnel 156  
Performance Evaluation Report, 11/4/09 to  
1/22/12; 4 pages  
22  
23 4 Alameda County Sheriff's Office Field 159  
Training Program Performance Assessment,  
8/23/09 to 11/3/09; 5 pages

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1 J. Randall Andrade, Attorney at Law, and Valerie  
2 Ly, Attorney at Law (as indicated), ANDRADA & ASSOCIATES  
3 180 Grand Avenue, Suite 225, Oakland, California 94612,  
4 was present on behalf of the defendants.

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1 (Pages 1 to 4)

## DEPOSITION OF DEPUTY MATTHEW AHLF

<p>1                   DEPUTY MATTHEW AHLF,  2                   sworn as a witness by the Court Reporter,  3                   testified as follows:  4                   EXAMINATION BY MR. HADDAD  5                   MR. HADDAD: Q. Good afternoon, Deputy Ahlf.  6                   <b>A. Good afternoon.</b>  7                   Q. This is the time for your deposition, so I'll  8                   start by just explaining what the process will be a little  9                   bit.  10                  Have you been deposed before?  11                  <b>A. No.</b>  12                  Q. Okay. I'm going to ask you some questions.  13                  When my co-counsel arrives, he'll probably have some  14                  questions too. I'll try to make my questions clear, but  15                  if you don't understand one of them, please let me know  16                  and I'll rephrase it for you. Okay?  17                  <b>A. Yes.</b>  18                  Q. When this is all over, you'll have an  19                  opportunity to review a transcript of everything that was  20                  said verbatim. And you're allowed to make any changes you  21                  want to the transcript if you find things that are  22                  incorrect in it. Sometimes there's just typographical  23                  errors or the reporter hears a word you said and types  24                  something that sounds similar to it. Those are no big  25                  deal. If you make a change that's substantive that</p>	<p>5</p> <p>1                   <b>A. December 28th, 2005.</b>  2                   Q. Did you immediately start working for the  3                   Sheriff's Department then?  4                   <b>A. Yes, I did.</b>  5                   Q. Can you briefly take me through your different  6                   assignments and posts or locations with the Alameda  7                   County, please.  8                   <b>A. Sure. As a deputy or as total?</b>  9                   Q. Let's start at the beginning --  10                  <b>A. Sure.</b>  11                  Q. -- at the airport.  12                  <b>A. At the airport, I was what they call a</b>  13                  <b>sheriff's safety aide. Job descriptions there were to</b>  14                  <b>monitor traffic coming in and out of the airport, man the</b>  15                  <b>security posts and -- very much guard those posts and make</b>  16                  <b>sure only authorized personnel would go through. I did</b>  17                  <b>that from January to June. And then I was accepted into</b>  18                  <b>the police academy, the 130th academy, and...</b>  19                  MR. ANDRADA: If you need to, because of the  20                  traffic noise outside --  21                  THE WITNESS: I apologize.  22                  MR. ANDRADA: No, no, no, no. If you need to talk  23                  directly at the reporter, that -- that's okay.  24                  THE WITNESS: Oh, okay. Okay. I apologize.  25                  MR. ANDRADA: Yeah.</p>
<p>6</p> <p>1                  changes the meaning of an answer, you can change it, but  2                  it doesn't really go away. It's still -- the original  3                  answer is still there and we can comment about that at  4                  trial. Okay?  5                  <b>A. Yes.</b>  6                  Q. So it's important to make sure that you've  7                  given your best testimony today, and do your best not to  8                  speculate or guess but actually testify based on what you  9                  can remember or what you know in some way. Okay?  10                 <b>A. Yes.</b>  11                 Q. How long have you been employed by the Alameda  12                 County Sheriff's Department?  13                 <b>A. Since January of 2005.</b>  14                 Q. Is that when you began some sort of police  15                 academy, or is that when you ended it?  16                 <b>A. I actually started as what they call a</b>  17                 <b>sheriff's safety aide at the Oakland Airport, so it's a</b>  18                 <b>nonsworn position, and then in June of that year is when I</b>  19                 <b>went to the police academy.</b>  20                 Q. And did you go in the Alameda County Police  21                 Academy?  22                 <b>A. Yes.</b>  23                 Q. And that was POST-certified, right?  24                 <b>A. Yes.</b>  25                 Q. When did you graduate from that academy?</p>	<p>8</p> <p>1                 THE WITNESS: So January -- I mean June -- forgive  2                 me, June 230th, 2005, I started in the police academy and  3                 graduated December 28th, and I started the jail  4                 January 3rd of 2006.  5                 MR. HADDAD: Q. And I know you had some different  6                 assignments after that.  7                 At one point you worked as a bailiff, right?  8                 <b>A. Yes, I did.</b>  9                 Q. So -- so take me through, if you can,  10                 starting -- excuse me.  11                 For now, just take me through the dates of your  12                 different assignments, please, and then I'll follow up.  13                 <b>A. Okay. So assigned to Santa Rita Jail from</b>  14                 <b>January of 2006 to -- I'm trying to remember the exact --</b>  15                 MR. ANDRADA: I don't think he needs the exact  16                 day --  17                 THE WITNESS: Oh, okay. All right --  18                 MR. ANDRADA: Stop. Stop. Stop. If you can give  19                 him a month and, of course, a year, that's really what I  20                 think he's interested in.  21                 THE WITNESS: Okay.  22                 MR. ANDRADA: So go ahead.  23                 THE WITNESS: I believe it was April or May of 2009  24                 I was transferred to the Rene C. Davidson Courthouse here  25                 in Oakland as a bailiff, and I was there for approximately</p>

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<p>9</p> <p>1 four months when I was transferred to the Field Training 2 Program at the Township Substation for patrol training, 3 and it was either August or September of that year that I 4 was transferred out there. And I did not complete the 5 Field Training Program. I left the program in November 6 and was transferred back to Rene C. Davidson Courthouse 7 where I worked until April of 2010 when I was transferred 8 back to Santa Rita Jail. And I was at Santa Rita Jail 9 January of 2010.</p> <p>10 MR. ANDRADA: Do you mean -- I'm sorry. 11 MR. HADDAD: Let me just stop you. 12 Q. You had recalled just now that you went back to 13 the court to work as a bailiff from November '09 to 14 April 2010. Does that sound right? 15 <b>A. Actually, forgive me, because I've been at the</b> 16 <b>coroner's now -- got transferred there -- yeah, that is</b> 17 <b>correct.</b> 18 Q. Okay. 19 <b>A. Yes.</b> 20 Q. So then after April 2010, you left the court 21 and where did you go? 22 <b>A. I went to Santa Rita Jail.</b> 23 <b>(Mr. Burris enters deposition room.)</b> 24 MR. HADDAD: Q. How long did you stay at 25 Santa Rita for that stint?</p>	<p>11</p> <p>1 <b>they offer, and then I went through a jail training</b> 2 <b>officer -- jail training -- on-the-job training for -- I</b> 3 <b>think it was four weeks.</b> 4 Q. Okay. And did you complete any sort of 5 State-certified corrections officer training? 6 <b>A. I didn't -- I haven't -- haven't got -- I</b> 7 <b>didn't get any kind of certificate for it, if that's what</b> 8 <b>you're asking. I went through the mandated standard</b> 9 <b>trainings of corrections. I went through that.</b> 10 Q. You know how -- how California POST regulates 11 the training of law enforcement officers, right? 12 <b>A. Well --</b> 13 MR. ANDRADA: Objection. Vague and ambiguous, 14 overly broad. 15 But you can go ahead and answer the question if you 16 can. 17 MR. HADDAD: Q. Right? 18 <b>A. Yes. I went through a POST academy.</b> 19 Q. There is a similar state organization that 20 oversees training of corrections officers, correct? 21 <b>A. Yes.</b> 22 Q. Do you recall what that's called? 23 <b>A. I believe it's called the standard trainings</b> 24 <b>for corrections.</b> 25 Q. Did you receive that training?</p>
<p>10</p> <p>1 <b>A. Until January of 2011. Yes.</b> 2 Q. And then where did you go? 3 <b>A. Currently, still presently assigned to -- I'm</b> 4 <b>sorry. January 2011 I was transferred to the Coroner's</b> 5 <b>Bureau.</b> 6 Q. Are you still there? 7 <b>A. Yes, sir.</b> 8 Q. What do you do for the Coroner's Bureau? 9 <b>A. I'm a deputy sheriff's investigator for unknown</b> 10 <b>death investigations.</b> 11 Q. Why did you leave your assignment at Santa Rita 12 Jail to go work at the Coroner's Bureau in early 2011? 13 <b>A. Position had opened up. I thought that would</b> 14 <b>be a good -- I've always been kind of interested in that,</b> 15 <b>so I thought that might be a good challenge, something</b> 16 <b>new.</b> 17 MR. HADDAD: Off the record for a second. 18 (Discussion off the record.) 19 MR. HADDAD: Back on the record. 20 Q. Now, your first assignment after completing the 21 police academy was at the jail, and you spent a little 22 over four years there. Is that right? 23 <b>A. Yes, sir.</b> 24 Q. Did you also receive corrections training? 25 <b>A. Went through an 80-hour jail ops training that</b></p>	<p>12</p> <p>1 <b>A. That's part of the 80-hour training course that</b> 2 <b>we had. I don't know if that's in connection. I'm not --</b> 3 <b>that I can't answer.</b> 4 Q. All right. So what assignments did you have 5 when you worked at the jail for that first three years? 6 <b>A. First, I was assigned to the housing unit to</b> 7 <b>oversee the security of several inmates in my housing</b> 8 <b>unit. I worked as a -- worked in booking where I</b> 9 <b>processed new and incoming -- inmates coming in, newly</b> 10 <b>arrested inmates. I worked in the classification</b> 11 <b>department where I would interview each inmate that would</b> 12 <b>come in and place them in the -- in the right housing unit</b> 13 <b>based off their classification. And then I worked -- I</b> 14 <b>became a jail training officer at that point where I</b> 15 <b>actually trained all the new deputies that were graduating</b> 16 <b>from the academy. And that's about what I did. I mean, I</b> 17 <b>worked in every -- I worked pretty much every</b> 18 <b>classification.</b> 19 Q. What did you train the new deputies in? 20 <b>A. I taught them in the 80-hour course. They</b> 21 <b>would be assigned to me, and I would teach them on the</b> 22 <b>daily operations, their roles, responsibilities as a</b> 23 <b>deputy; security precautions. Teach them on -- basically</b> 24 <b>how to manage and how to work effectively as a new deputy.</b> 25 <b>Basically get them up to speed in that short period of</b></p>

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<p>1 time that I would have.</p> <p>2 Q. When did you begin teaching deputies that</p> <p>3 80-hour class at corrections?</p> <p>4 <b>A. I don't recall the exact month or date. I</b></p> <p>5 <b>believe that was in late 2006. I believe so. I don't</b></p> <p>6 <b>recall the exact month or year. It was about close to my</b></p> <p>7 <b>probationary period of time.</b></p> <p>8 Q. Shortly after you finished your probation, you</p> <p>9 were actually teaching the class, the 80-hour class. Is</p> <p>10 that right?</p> <p>11 <b>A. I was teaching -- there was two subjects that I</b></p> <p>12 <b>would teach at that point.</b></p> <p>13 Q. What were those?</p> <p>14 <b>A. It was commissary, and it was distribution of</b></p> <p>15 <b>mail.</b></p> <p>16 Q. All right. So you didn't actually teach all</p> <p>17 80 hours --</p> <p>18 <b>A. No.</b></p> <p>19 Q. -- just little bit of it?</p> <p>20 <b>A. Yeah.</b></p> <p>21 MR. ANDRADA: It's important for everybody if you</p> <p>22 just wait until he finishes asking his question --</p> <p>23 THE WITNESS: Okay.</p> <p>24 MR. ANDRADA: -- before you start to answer. So</p> <p>25 even though we have a very good court reporter here, it's</p>	<p>1 your department's policies when you were teaching those</p> <p>2 subjects?</p> <p>3 <b>A. I would -- I created my own PowerPoint for</b></p> <p>4 <b>that. That was based off of the general order.</b></p> <p>5 Q. For which subject did you create the</p> <p>6 PowerPoint?</p> <p>7 <b>A. Cell extractions. I think it was cell</b></p> <p>8 <b>extractions. I don't recall if I made one for restraints.</b></p> <p>9 Q. Do you still have those PowerPoint</p> <p>10 presentations somewhere?</p> <p>11 <b>A. I'm sure I do.</b></p> <p>12 Q. Where do you think you probably have them?</p> <p>13 <b>A. Might be on my thumb drive. I had several</b></p> <p>14 <b>thumb drives. Could be on that. It might be at one of</b></p> <p>15 <b>the computers at Santa Rita.</b></p> <p>16 Q. I'm just going to ask that you preserve those,</p> <p>17 please, and provide them to your attorney, and then we'll</p> <p>18 make a formal request for those. Okay?</p> <p>19 <b>A. Sure.</b></p> <p>20 Q. After your first three years or so at the jail,</p> <p>21 you went to go work as a bailiff for about four months,</p> <p>22 and then you entered a Field Training Program, right?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. Why did you enter field training at that point</p> <p>25 in your tenure with the Sheriff's Department?</p>
14	16
<p>1 difficult to take down two people talking at once. Okay?</p> <p>2 THE WITNESS: Yes, sir.</p> <p>3 MR. HADDAD: Q. What other parts of that 80-hour</p> <p>4 corrections officers course did you eventually teach?</p> <p>5 <b>A. I taught, obviously, the distribution of mail.</b></p> <p>6 <b>I taught commissary. I taught handling disruptive</b></p> <p>7 <b>inmates. I taught the cell extraction portion. I taught</b></p> <p>8 <b>restraints, the proper application of restraints. I can't</b></p> <p>9 <b>think of anything else I taught for that.</b></p> <p>10 Q. All right. So when you taught about handling</p> <p>11 disruptive inmates and cell extraction and use of</p> <p>12 restraints, were there any written materials?</p> <p>13 <b>A. That I would teach off of?</b></p> <p>14 Q. Yes.</p> <p>15 <b>A. Yes. I taught off of our policy and procedure.</b></p> <p>16 Q. So you used the general orders of your</p> <p>17 department?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Did you use any other sort of training</p> <p>20 materials or bulletins?</p> <p>21 <b>A. I used applications of restraints, actively</b></p> <p>22 <b>showing how to properly apply with chains, leg irons, and</b></p> <p>23 <b>proper -- depending on the classification of the inmate</b></p> <p>24 <b>that you're dealing with, proper application of handcuffs</b></p> <p>25 Q. Did you use any other written materials besides</p>	<p>1 <b>A. I put in -- well, years prior, I put in a</b></p> <p>2 <b>request to go to patrol, and at that point when I went to</b></p> <p>3 <b>the bailiff's, a spot came up for me to be able to go.</b></p> <p>4 Q. So that was field training so you could switch</p> <p>5 to patrol from the other assignments you had been doing,</p> <p>6 correct?</p> <p>7 <b>A. Correct.</b></p> <p>8 Q. And you told me that you did not complete that</p> <p>9 field training. Is that right?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Why did you fail to complete the field training</p> <p>12 at that time?</p> <p>13 <b>A. I had a family emergency that I had to withdraw</b></p> <p>14 <b>from the program.</b></p> <p>15 Q. Did it have anything to do with the fact that</p> <p>16 your evaluations in that Field Training Program were below</p> <p>17 standard?</p> <p>18 <b>A. No.</b></p> <p>19 Q. Is it true that you were receiving below</p> <p>20 standard evaluations in the Field Training Program?</p> <p>21 <b>A. Some, yes.</b></p> <p>22 Q. But it's your testimony that the only reason</p> <p>23 you left the Field Training Program was because of a</p> <p>24 family issue. Is that right?</p> <p>25 <b>A. I had a family emergency that occurred during</b></p>

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<p>17</p> <p>1   <b>my Field Training Program that caused me to make the</b> 2   <b>decision to leave.</b></p> <p>3       Q. So then you went to go work as a bailiff then, 4       and when you returned to Santa Rita Jail, that was in 5       April 2010, correct?</p> <p>6       <b>A. Yes.</b></p> <p>7       Q. Now, the incident with Martin Harrison happened 8       in August of 2010. Do you recall that?</p> <p>9       <b>A. Yes.</b></p> <p>10       Q. So you'd been back at the jail for about four 11       months by that time, right?</p> <p>12       <b>A. Yes.</b></p> <p>13       Q. What was your assignment during that four 14       months?</p> <p>15       <b>A. I was a jail training officer.</b></p> <p>16       Q. What does that mean?</p> <p>17       <b>A. Basically, again, as a training officer, you</b> 18       <b>handle training of new deputies graduating the academy.</b> 19       <b>You train them in the daily operations of how to run a</b> 20       <b>housing unit. You teach them on the safety precaution</b> 21       <b>dealing with inmates. You get them ready to be able to</b> 22       <b>handle a housing unit solely by themselves.</b></p> <p>23       Q. So who gave you that responsibility of being a 24       trainer?</p> <p>25       <b>A. The department did.</b></p>	<p>19</p> <p>1       learned that those are optional; you don't really have to 2       obey them?</p> <p>3       MR. ANDRADA: Objection. Vague and ambiguous, 4       overly broad.</p> <p>5       Go ahead.</p> <p>6       THE WITNESS: No.</p> <p>7       MR. HADDAD: Q. So all of them are mandatory, 8       right?</p> <p>9       <b>A. Yes.</b></p> <p>10       Q. So in order to obey the general orders, you 11       have to know what they are, right?</p> <p>12       <b>A. Essentially, yes.</b></p> <p>13       Q. Now, prior to starting your work with the 14       Sheriff's Department in 2005, what other jobs did you do? 15       What other kind of work did you do?</p> <p>16       <b>A. I was in retail for a long time. Basically,</b> 17       <b>it's all sales. Most of my career prior to doing law</b> 18       <b>enforcement was in retail sales. Basically, it's all</b> 19       <b>sales work.</b></p> <p>20       Q. Do you have any experience dealing with the 21       mentally ill?</p> <p>22       <b>A. No.</b></p> <p>23       Q. Or developmentally disabled people?</p> <p>24       <b>A. No, sir.</b></p> <p>25       Q. Because I thought I saw in one of your</p>
<p>18</p> <p>1       Q. And in order to do that, you had to be 2       knowledgeable of all the general orders that were 3       applicable to that work at the jail, right?</p> <p>4       MR. ANDRADA: Objection. Vague and ambiguous, 5       overly broad.</p> <p>6       But you can go ahead and answer it.</p> <p>7       THE WITNESS: I had to be competent of most general 8       orders, yes. Being able to teach and equip deputies with 9       the way the sheriff -- the guidelines that the Sheriff's 10      Office provides.</p> <p>11       MR. HADDAD: Q. Basically, any general order that 12      would pertain to the work you were teaching or doing at 13      the jail, you were required to know, right?</p> <p>14       MR. ANDRADA: Objection. Vague and ambiguous, 15       overly broad.</p> <p>16       Go ahead and answer it if you can.</p> <p>17       THE WITNESS: I won't say that you were mandated to 18       know every single one of them, because there was a ton of 19       them. You were mandated to follow the -- so you sign off 20       a statement saying that you have read the general order.</p> <p>21       You sign off and follow that, so, yes.</p> <p>22       MR. HADDAD: Q. You're required to follow all of 23       the general orders, right?</p> <p>24       <b>A. Yes.</b></p> <p>25       Q. Are there any general orders where you've ever</p>	<p>20</p> <p>1       statements that was related to this particular incident 2       where you mentioned that based on your background in 3       dealing with the mentally ill, you had some sort of 4       understanding.</p> <p>5       Am I incorrect; you never had any connect- -- 6       experience with mentally ill people other than from the 7       jail?</p> <p>8       MR. ANDRADA: Okay. Listen to his question and 9       answer the question.</p> <p>10       THE WITNESS: I'm not quite sure what you're 11       getting at.</p> <p>12       MR. HADDAD: Q. Do you have any experience working 13       with or working around mentally ill people other than from 14       your law enforcement work?</p> <p>15       <b>A. Not that I can recall.</b></p> <p>16       Q. Do you have any training in how to handle or -- 17       or be around mentally ill people other than your law 18       enforcement training?</p> <p>19       <b>A. I don't recall getting any training, no.</b></p> <p>20       Q. Did you graduate from high school?</p> <p>21       <b>A. Yes, I do.</b></p> <p>22       Q. What year?</p> <p>23       <b>A. 1993.</b></p> <p>24       Q. Do you have any post-high-school education?</p> <p>25       <b>A. A little bit. Not a lot.</b></p>

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21  1 Q. Just, generally, do you have any degrees or 2 classes? 3 <b>A. I have classes. I do not have any degrees.</b> 4 MR. HADDAD: Would you mark this, please. 5 (Plaintiffs' Exhibit 1 was marked for 6 identification.) 7 MR. HADDAD: I marked, as Exhibit 1, a copy of the 8 Alameda County Sheriff's Department General Order on use 9 of force. 10 Q. You've seen that before, right? 11 <b>A. Yes, sir.</b> 12 Q. That's one of those policies that you're 13 required to know and follow at all times, right? 14 <b>A. Yes, sir.</b> 15 Q. In fact, did you use this policy in any of the 16 training that you provided for other deputies? 17 <b>A. Yes, I did.</b> 18 Q. And this particular policy, which was revised 19 on August 5th, 2010, was the one that was in effect at the 20 time of the Harrison incident, right? 21 <b>A. Yes.</b> 22 Q. Now, you've received a lot of training about 23 how to make decisions concerning use of force, right? 24 MR. ANDRADA: Objection. Overly broad, vague and 25 ambiguous.	23  1 appropriate under the circumstances? 2 <b>A. Yes, sir.</b> 3 Q. You're not allowed to use force that's 4 unnecessary, are you? 5 <b>A. Correct.</b> 6 Q. And you've also been trained that when you do 7 use force, after the fact, you're expected to be able to 8 articulate the relevant factual circumstances that you 9 confronted into which a forcible response was given, 10 right? 11 <b>A. Right.</b> 12 Q. You're supposed to be able to articulate, 13 clearly explain what force you used and why you used it, 14 right? 15 <b>A. Correct.</b> 16 Q. And that's true for every time you use force, 17 even if you use multiple applications of force in a single 18 incident, right? 19 <b>A. Correct.</b> 20 Q. So, for instance, if you have an incident with 21 an inmate and you need to punch that inmate ten times, 22 you're supposed to explain the reason for every one of 23 those punches, correct? 24 <b>A. Correct.</b> 25 Q. And every one of those have to be justified
22  1 But you can go ahead and answer it. 2 THE WITNESS: We had training in the academy. You 3 get trained a certain amount in the jail, in the 80-hour 4 core course, and then in your -- on your training -- your 5 training phase with a jail training officer, that's about 6 it. 7 MR. HADDAD. Q. And the jail provides you ongoing 8 training on certain topics, right? 9 <b>A. Certain ones, yes.</b> 10 Q. And use of force was one of those topics, yes? 11 <b>A. Yes.</b> 12 Q. And, in fact, in the training that you provided 13 as a trainer handling disruptive inmates, cell extraction, 14 and restraints, all of those touch on use of force in some 15 respects, right? 16 <b>A. Yes.</b> 17 Q. Take a look at the first page. Do you see the 18 very bottom where it says "Order"? The last two lines 19 say, "Order," quote, "When the use of force is necessary 20 and appropriate, members shall be guided by the options 21 set forth in this order," unquote. 22 Do you see that? 23 <b>A. Yes, I do.</b> 24 Q. All right. And you have been trained that any 25 use of force you decide to use has to be necessary and	24  1 under your training and the standards that you've been 2 taught, right? 3 <b>A. Correct.</b> 4 Q. And you had been trained that your decisions 5 about use of force can have life and death implications, 6 right? 7 <b>A. Yes, sir.</b> 8 Q. And that those decisions can be difficult to 9 make in your job, right? 10 <b>A. At times, yes, sir.</b> 11 Q. Sometimes you need to make those decisions very 12 quickly, within seconds or even split seconds, correct? 13 <b>A. It's safe to say, yes.</b> 14 Q. Yeah. 15 And you've been taught about that and how to make 16 those decisions in a way that are reasonable and lawful, 17 even in a very short amount of time, right? 18 MR. ANDRADA: Objection. Vague and ambiguous, 19 overly broad. 20 But you can go ahead. 21 THE WITNESS: Yes, we're taught -- yes. 22 MR. HADDAD: Q. Even if you need to make a 23 split-second decision about the type or level of force to 24 use, your department expects that you will make a lawful 25 decision, right?

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25 1 <b>A. Yes.</b> 2       Q. And do you think that you have been prepared in 3 order to make those decisions lawfully? 4 <b>A. Yes.</b> 5       Q. And you've been trained that there's a number 6 of factors that you should take into account when deciding 7 what kind or how much force to use against a person such 8 as an inmate, right? 9 <b>A. Yes.</b> 10      Q. And I'm looking now on Page 3 of this policy, 11 which is Exhibit 1. And under Subsection B-2, it lists a 12 number of considerations that you should consider in 13 deciding what kind of force to use, right? 14 <b>A. Yes, sir.</b> 15      Q. And some of the things you've been trained to 16 consider that should affect your decision about force are 17 the age, size, relative strength, skill level, injury or 18 exhaustion, or the number of deputies versus the number of 19 subjects, right? 20 <b>A. Yes, sir.</b> 21      Q. Generally in a situation where you have many 22 deputies versus one inmate, that would count in favor of a 23 lower level of force, right? 24      MR. ANDRADA: Objection. Vague and ambiguous, 25 overly broad.	27 1       lawful decision about force, right? 2       MR. ANDRADA: Objection. Vague and ambiguous, 3 overly broad. 4       Go ahead. 5       THE WITNESS: Yes. 6       MR. HADDAD: Q. And so you understand what the 7 concept, as your department uses it, of passive or low 8 level of resistance is, right? 9 <b>A. Say that one more time.</b> 10      Q. You understand the term, as your department 11 uses it, "passive or low-level resistance"?12 <b>A. Yes.</b> 13      Q. So let's take a look at the bottom of Page 3, 14 Section C-2. There's a definition there for those terms. 15      Do you see that? 16 <b>A. Yes.</b> 17      Q. And your department defines passive or 18 low-level resistance as where, quote, "The subject is 19 passive or defensively resists a deputy's authority and 20 direction. This includes verbal and physical cues of 21 noncompliance," unquote, right? 22 <b>A. Yes.</b> 23      Q. So there can be situations where an inmate is 24 physically noncompliant, and that would translate into 25 passive or low-level resistance, right?
26 1       THE WITNESS: Not all the time, no. 2       MR. HADDAD: Q. But in general -- 3 <b>A. No.</b> 4       Q. -- when you've got more manpower versus one 5 inmate, doesn't that mean that you may not need to use as 6 much force as if you were just one on one? 7       MR. ANDRADA: Objection. Vague and ambiguous, 8 overbroad, calls for speculation as phrased. 9       THE WITNESS: Not necessarily. 10      MR. HADDAD: Q. And if the inmate is smaller than 11 you or less muscular than you, does that suggest that that 12 might be a reason why you should consider a less forceful 13 option? 14 <b>A. No.</b> 15      Q. Now, you've been taught to consider the -- the 16 actions of the inmate when deciding what level of force to 17 use, right? 18 <b>A. Yes.</b> 19      Q. And you've been taught to consider whether the 20 inmate is cooperative or whether they're using passive or 21 low-level resistance or whether they're actually using 22 active resistance or being assaultive, right? 23 <b>A. Right.</b> 24      Q. And you've been taught in those different 25 levels of conduct by the inmate so that you can make a	28 1       MR. ANDRADA: Objection. Vague and ambiguous, 2 overbroad broad. 3       THE WITNESS: State that -- state that one more 4 time. I'm sorry. 5       MR. HADDAD: Please read that back. 6       (Record read as follows: 7               "QUESTION: So there can be 8 situations where an inmate is physically 9 noncompliant, and that would translate into 10 passive or low-level resistance, right?" 11       MR. ANDRADA: Same objections -- 12       THE WITNESS: I would say -- 13       MR. ANDRADA: -- but go ahead. 14       THE WITNESS: -- there are certain situations, yes, 15 but not all the time. 16       MR. HADDAD: Q. Okay. Now, in response to passive 17 or low-level resistance, your department sometimes uses a 18 use-of-force continuum, and I'm just going to show you 19 mine. 20       Do you see that? 21 <b>A. Yes.</b> 22       Q. You've seen that before, right? 23 <b>A. Yes, sir.</b> 24       Q. And when you're facing passive or low-level 25 resistance from an inmate, you're allowed to use any of

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<p>29</p> <p>1 the following techniques, including joint manipulation, 2 pressure-point application, unarmed strikes, and takedown 3 techniques. Is that right?</p> <p>4       <b>A. Correct.</b></p> <p>5       Q. That's in addition to your professional 6 presence or verbalization or restraints or handcuffs, 7 right?</p> <p>8       <b>A. Correct.</b></p> <p>9       MR. ANDRADA: I just want to indicate for the 10 record, the document counsel showed the witness, counsel's 11 copy, which is in the binder, which is in the binder of 12 counsel, but the document is, in fact, part of Exhibit 1.</p> <p>13       MR. HADDAD: Oh, good. Okay. I didn't notice 14 that. Good. So that's Bates No. 243.</p> <p>15       MR. BURRIS: 243.</p> <p>16       MR. HADDAD: Q. Now, the next level of force up 17 from the force you're allowed to use for passive or 18 low-level resistance is called "intermediate force," 19 right?</p> <p>20       <b>A. Yes, sir.</b></p> <p>21       Q. And that includes things like Tasers, right?</p> <p>22       <b>A. Yes, sir.</b></p> <p>23       Q. Or carotid restraints, right?</p> <p>24       <b>A. Yes, sir.</b></p> <p>25       Q. And in order to permissibly use intermediate</p>	<p>31</p> <p>1 where you might be one on one with an inmate, the inmate 2 may be larger than you, or there could be other factors 3 where it's your belief that a Taser would be an 4 appropriate and lawful use of force in response to passive 5 or low-level resistance. Is that right?</p> <p>6       <b>A. Passive, low-level, no. I'll just say it's 7 safe to say that some immediate force should have some 8 sort of active resistance.</b></p> <p>9       Q. And that's what your department's policy says, 10 right?</p> <p>11       <b>A. Yes, sir.</b></p> <p>12       Q. Have you been trained in carotid restraints?</p> <p>13       <b>A. Yes, sir.</b></p> <p>14       Q. Sometimes your department refers to those as 15 "bilateral vascular neck restraint," right?</p> <p>16       <b>A. The term I'm familiar with is "carotid."</b></p> <p>17       Q. Okay. Can you describe for us what is a 18 carotid restraint?</p> <p>19       <b>A. It's where you've -- you're cutting off the 20 oxygen of the carotid arteries. Basically, it causes the 21 oxygen level to cease to go to the brain, which causes the 22 person to become unconscious for a brief period of time.</b></p> <p>23       Q. How do you do a carotid restraint?</p> <p>24       <b>A. I've never done one. We practice it. You 25 go -- you put your arm around somebody's neck, get the</b></p>
<p>30</p> <p>1 force, you need to be facing active resistance or actual 2 assaultive behavior, right?</p> <p>3       <b>A. Yes. Usually, yes.</b></p> <p>4       Q. Is there any exception where you're -- for 5 instance, are you allowed to use a Taser in response to 6 mere passive or low-level resistance?</p> <p>7       MR. ANDRADA: Objection. Vague and ambiguous, 8 overly broad.</p> <p>9       Go ahead if you can.</p> <p>10       THE WITNESS: Typically, no. What I've -- my 11 experience is there's a lot of factors with that. We look 12 at size of the person, compliance of that person if you're 13 by yourself. And trying to get voluntary compliance from 14 somebody, you look at if he's 100 pounds heavier than me, 15 a lot bigger than me. When I look at compliance 16 techniques, those might not be effective. I mean, if I'm 17 by myself, I may not be able to effectively handle 18 somebody. So depending on the situation, typically, I'll 19 say no. Active resistance is where you're going to need 20 immediate action. However, there are times when you need 21 to take the totalities of the situation and make a 22 judgment call.</p> <p>23       MR. HADDAD: Q. Okay. I think I understand what 24 you're saying, but let me make sure.</p> <p>25       So it's your testimony that, in certain situations</p>	<p>32</p> <p>1 <b>crux of your arm into their carotid area and wrap that arm 2 around, your biceps area, and hold it in place and apply 3 minimal pressure until that person becomes non-- 4 becomes -- I guess you want to call it not a threat 5 anymore. He basically loses consciousness.</b></p> <p>6       Q. Have you been trained that if you were to do a 7 carotid restraint on somebody, that that could cause 8 bruising on the neck?</p> <p>9       <b>A. Yes.</b></p> <p>10       Q. Have you been trained that if you do an 11 improper carotid restraint, it can cause serious injury to 12 the person?</p> <p>13       <b>A. Yes.</b></p> <p>14       Q. And if you do do a carotid restraint, you're 15 required to document that and explain it for your 16 department, right?</p> <p>17       <b>A. Yes.</b></p> <p>18       Q. Your department considers that to be a serious 19 use of force, correct?</p> <p>20       MR. ANDRADA: Objection. Vague and ambiguous, 21 overly broad.</p> <p>22       Go ahead.</p> <p>23       THE WITNESS: Due to the factors listed underneath 24 the intermediate force level, yes, I would assume that 25 they would deem that serious.</p>

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<p>1       MR. HADDAD: Q. All right. Now, you've also been 2       trained in the use of the Taser X26, right? 3       <b>A. Yes.</b> 4       Q. When did you get that training? 5       <b>A. I don't recall the first time I received that.</b> 6       <b>I don't recall the year that happened. Approximate --</b> 7       <b>maybe 2008? I don't know. It's been a while.</b> 8       Q. Before the Harrison incident, how many times 9       had you used a Taser against an inmate? 10      <b>A. Once.</b> 11      Q. When was that? 12      MR. ANDRADA: And I think he just wants 13       approximate. 14      THE WITNESS: Approximate 2008, 2009, sometime 15       around that area. 16      MR. HADDAD: Q. And on that occasion, how many 17       discharges of the Taser did you do? 18      <b>A. One.</b> 19      Q. Did your department find that to be an 20       appropriate use of force at that time? 21      <b>A. Yes.</b> 22      Q. Now, your department has a policy about Taser, 23       right? 24      <b>A. Yes.</b> 25      Q. Just for the record, I'm looking at Bates</p>	<p>33</p> <p>1       <b>A. Correct.</b> 2       Q. And you're required to give a warning to the 3       person before tasing them, right? 4       <b>A. Correct.</b> 5       Q. And one of the reasons you're required to give 6       a warning is because that gives the person reasonable 7       opportunity to voluntarily comply, correct? 8       <b>A. Yes.</b> 9       <b>Can I interrupt real quick?</b> 10      MR. ANDRADA: Sure. 11      THE WITNESS: Going back to the last question -- a 12       couple of questions prior when you asked about only using 13       Taser on actively, there are situations where there's a 14       potential of somebody possibly -- whether or not they're 15       concealing their hands, you don't know what they have; 16       they're noncompliant; they're actively resisting, you 17       know, showing you your hands where you may need to use a 18       Taser. So I would say that, you know, mostly, yeah, it's 19       active, when someone is actively resisting, but also, at 20       times, it does -- you -- you -- there is a time when 21       there's a potential of injury to himself or people 22       around -- 23      MR. HADDAD: Okay. 24      THE WITNESS: -- so I wanted to just clarify. 25      MR. HADDAD: Q. That's the way you've been</p>
<p>34</p> <p>1       No. 253, the Taser policy. It's not part of that exhibit 2       that I gave you. 3       <b>A. Okay.</b> 4       Q. But basically you're required to know and 5       follow the Taser policy whenever you use a Taser, right? 6       <b>A. Yes, sir.</b> 7       Q. And you're only allowed to use a Taser without 8       prior approval in cases where you're facing a threat that 9       is imminent. Is that right? 10      MR. ANDRADA: Objection. Vague and ambiguous, 11       overly broad. 12      THE WITNESS: Can you rephrase that question? 13      MR. HADDAD: Q. Your department says you're only 14       allowed to use a Taser in a situation where you're facing 15       an imminent threat, right? 16      <b>A. Yes.</b> 17      Q. And what's your understanding of the word 18       "imminent" in that context? 19      <b>A. "Imminent" meaning I have to wait for an</b> 20      <b>active -- I have to wait for an active either movement or</b> 21      <b>I have to wait for an active actual threat.</b> 22      Q. Not a potential threat, right? 23      <b>A. Correct.</b> 24      Q. You have to be facing an actual threat at that 25       moment, correct?</p>	<p>34</p> <p>36</p> <p>1       trained? 2       <b>A. Yes.</b> 3       Q. And that's the way you've trained other 4       deputies, too? 5       <b>A. Yes.</b> 6       Q. So sometimes a person may not show their hands 7       to you when you order them to show their hands, and that 8       could be a situation where you believe you would be 9       justified in using a Taser on them. Is that right? 10      MR. ANDRADA: Objection. Vague and ambiguous, 11       overly broad. 12      THE WITNESS: I'm not saying that. I'm saying 13       there are times when you may be in a struggle with 14       somebody and you can't get their hands, so they're not an 15       active threat to you, but because you don't know what they 16       may or may not have, may not -- if you can't get 17       compliance from that person and you followed -- you can't 18       get joint manipulations, you followed the use-of-force 19       matrix to the point of where you have -- where you have an 20       option to -- tasing them would be if he's resisting to the 21       point -- I mean, he's not actively hitting you. He's not 22       actively, you know, pointing a gun at you or anything like 23       that, but there are times when it may not be -- you know, 24       he running at you, him swinging at you, or pointing a gun 25       at you, but there are times when the situation deems where</p>

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<p>37</p> <p>1 a Taser is justified.</p> <p>2 MR. HADDAD: Q. Like a situation where they're</p> <p>3 actively combative and refusing to be handcuffed, right.</p> <p>4 <b>A. Correct.</b></p> <p>5 Q. Is that what you're talking about?</p> <p>6 <b>A. Yes, sir.</b></p> <p>7 Q. All right. Have you been trained that one of</p> <p>8 the factors that you should consider before using a Taser</p> <p>9 on someone is whether or not you believe they're mentally</p> <p>10 ill at the time?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. How does that factor in?</p> <p>13 MR. ANDRADA: Again, vague and ambiguous.</p> <p>14 But go ahead.</p> <p>15 THE WITNESS: Again, you're noting -- you're --</p> <p>16 you're taking into consideration when you're in a</p> <p>17 situation -- you're dealing with that situation the</p> <p>18 person's capacity to be able to follow the directions,</p> <p>19 their -- their movements, their gestures, signs and</p> <p>20 symptoms of just that, you know, the totality of the</p> <p>21 situation.</p> <p>22 MR. HADDAD: Q. How does a mentally ill person's</p> <p>23 capacity to follow your directions affect the decisions</p> <p>24 you make about use of force?</p> <p>25 MR. ANDRADA: Again, vague and ambiguous, overly</p>	<p>39</p> <p>1 Q. You've been trained that when you use a Taser,</p> <p>2 you're only supposed to use it for one standard</p> <p>3 five-second cycle, right?</p> <p>4 MR. ANDRADA: Objection. Vague and ambiguous,</p> <p>5 overly broad.</p> <p>6 Go ahead.</p> <p>7 THE WITNESS: Not necessarily.</p> <p>8 MR. HADDAD: Q. Can you explain that, what you've</p> <p>9 been trained about how many cycles of a Taser you're</p> <p>10 allowed to do?</p> <p>11 MR. ANDRADA: Objection. Vague and ambiguous as to</p> <p>12 what you mean by "allowed."</p> <p>13 But go ahead.</p> <p>14 THE WITNESS: Trained that, typically, what they</p> <p>15 recommend is no more than three, unless exigent</p> <p>16 circumstances.</p> <p>17 MR. HADDAD: Q. And who trained you that?</p> <p>18 <b>A. Department.</b></p> <p>19 Q. What's the reason that was explained to you in</p> <p>20 your training about why you should avoid more than three</p> <p>21 Taser cycles unless exigent circumstances?</p> <p>22 <b>A. I don't recall on that. It's been a while.</b></p> <p>23 Q. Haven't you been trained that subjecting a</p> <p>24 person to multiple Taser cycles could be dangerous to the</p> <p>25 person?</p>
<p>38</p> <p>1 broad.</p> <p>2 But go ahead.</p> <p>3 THE WITNESS: For me, it causes me to look at the</p> <p>4 safety of that person, look at the safety of myself</p> <p>5 dealing with this person. I don't have a lot of</p> <p>6 experience with -- I deal with -- I've dealt with mental</p> <p>7 health people in the jail. But, again, I'm looking at the</p> <p>8 totalities of the situation, so it's hard to say on that.</p> <p>9 MR. HADDAD: Q. If you're dealing with an inmate</p> <p>10 in the jail who you -- whom you believe to be mentally ill</p> <p>11 and you question whether they can understand and follow</p> <p>12 your commands because of their mental illness, does that</p> <p>13 make you more likely or less likely to use a Taser on them</p> <p>14 if they're noncompliant?</p> <p>15 MR. ANDRADA: Objection. Vague and ambiguous,</p> <p>16 overly broad, calls for speculation.</p> <p>17 THE WITNESS: Depends on the situation that you're</p> <p>18 dealing with.</p> <p>19 MR. HADDAD: Q. Going back to the warnings, your</p> <p>20 department requires you to document in writing whether or</p> <p>21 not you gave a warning before you tase a person, right?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. And you're supposed to explain why you gave a</p> <p>24 warning or why you didn't give a warning, right?</p> <p>25 <b>A. Yeah.</b></p>	<p>40</p> <p>1 MR. ANDRADA: Objection. Vague and ambiguous,</p> <p>2 overly broad.</p> <p>3 But go ahead.</p> <p>4 THE WITNESS: It could, but not in normal</p> <p>5 situations.</p> <p>6 MR. HADDAD: Q. But there's a risk to a person the</p> <p>7 more cycles of a Taser that they endure, correct?</p> <p>8 MR. ANDRADA: Objection. Vague and ambiguous,</p> <p>9 overly broad.</p> <p>10 THE WITNESS: I don't have an answer for that.</p> <p>11 MR. HADDAD: Q. Have you been trained that,</p> <p>12 whenever possible, you should avoid using a Taser to</p> <p>13 subdue a person who has been subjected to a Taser within</p> <p>14 the last 24 hours?</p> <p>15 <b>A. That -- I don't recall that.</b></p> <p>16 MR. ANDRADA: Is this a good time for five minutes?</p> <p>17 We've been going for about an hour.</p> <p>18 MR. HADDAD: Okay. Sure.</p> <p>19 (Recess taken from 1:56 p.m. to 2:06 p.m.)</p> <p>20 (Ms. Ly does not return.)</p> <p>21 MR. HADDAD: Back on the record.</p> <p>22 Q. Let me just show you something. This was</p> <p>23 produced by the County in this case, and it's Bates</p> <p>24 No. 503, and I'll just show it to you. It's some</p> <p>25 guidelines and warnings from the Taser company.</p>

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<p>1       Have you ever seen those kinds of things in 2 connection with any training that you've gotten about 3 Taser?</p> <p>4       MR. ANDRADA: Objection. Vague and ambiguous, 5 overly broad.</p> <p>6       But go ahead.</p> <p>7       THE WITNESS: No, sir. I don't recall seeing it.</p> <p>8       MR. HADDAD: Q. Now, one of the things Taser 9 company warns is that you should minimize repeated, 10 continuous, or simultaneous Taser exposures.</p> <p>11      Have you ever been trained about that?</p> <p>12      <b>A. As far as -- rephrase that question for me.</b></p> <p>13      Q. Have you ever been trained in connection with 14 Taser that you should minimize repeated, continuous, or 15 simultaneous Taser exposures on another person?</p> <p>16      <b>A. We train that that's the goal, to use it only 17 once.</b></p> <p>18      Q. Okay. And have you been trained that if you 19 use repeated, continuous, or simultaneous exposures, it 20 can present a health risk for the person being tased?</p> <p>21      <b>A. Yes.</b></p> <p>22      Q. And what have you been trained can be health 23 risks to a person if you use the Taser repeatedly, 24 continuously, or simultaneously with another Taser?</p> <p>25      MR. ANDRADA: Objection. Vague and ambiguous,</p>	<p>41</p> <p>1       MR. HADDAD: Q. It's meant to be extremely 2 painful, right?</p> <p>3       MR. ANDRADA: Objection -- excuse me.</p> <p>4       Objection. Vague and ambiguous, overly broad.</p> <p>5       THE WITNESS: Yes, I guess.</p> <p>6       MR. HADDAD: Q. That's what you've been trained, 7 right?</p> <p>8       <b>A. It's -- in terms of being painful? Not that -- 9 we haven't been trained, "Oh, it's absolutely painful." I 10 can't say that because I don't know anybody that's told 11 me, "Oh, I've been tased, and, yeah, it hurts." I can't 12 answer that.</b></p> <p>13      Q. You've been trained that tasing a person can 14 cause them to become really escalated in their actions 15 and -- and agitated, right?</p> <p>16      MR. ANDRADA: Objection. Vague and ambiguous, 17 overly broad.</p> <p>18      Go ahead.</p> <p>19      THE WITNESS: Clarify what you're asking.</p> <p>20      MR. HADDAD: Q. Have you been trained that if you 21 were to use a Taser on a person who is mentally ill, it 22 can cause them to become very aggravated and aggressive?</p> <p>23      MR. ANDRADA: Same objections.</p> <p>24      But go ahead.</p> <p>25      THE WITNESS: No, not at all times. No, not</p>
<p>42</p> <p>1       overly broad.</p> <p>2       Go ahead if you can.</p> <p>3       THE WITNESS: It's been a long time. I don't 4 recall specific things, specific conditions that can 5 happen.</p> <p>6       MR. HADDAD: Q. Okay. Have you been trained that 7 using the Taser on somebody who is having the effects of 8 drug or alcohol withdrawal or is in an agitated or excited 9 psychiatric state can cause problems for a person like 10 that?</p> <p>11      MR. ANDRADA: Objection. Vague and ambiguous, 12 overly broad.</p> <p>13      THE WITNESS: I don't recall.</p> <p>14      MR. HADDAD: Q. When you went through Taser 15 training, did you have the option to get tased yourself?</p> <p>16      <b>A. No.</b></p> <p>17      Q. They didn't allow deputies to experience what a 18 Taser was like?</p> <p>19      <b>A. No, sir.</b></p> <p>20      Q. Have you ever experienced being tased?</p> <p>21      <b>A. No, sir.</b></p> <p>22      Q. Have you ever wanted to?</p> <p>23      MR. ANDRADA: Objection. Vague and ambiguous, 24 overly broad.</p> <p>25      THE WITNESS: I don't think anybody ever wants to.</p>	<p>44</p> <p>1       necessarily.</p> <p>2       MR. HADDAD: Q. Is it a person's -- isn't the fact 3 that a person is mentally ill -- doesn't that increase the 4 chances that tasing them will cause them to be aggressive?</p> <p>5       MR. ANDRADA: Objection. Vague and ambiguous, 6 overly broad.</p> <p>7       THE WITNESS: I can't answer that.</p> <p>8       MR. HADDAD: Q. You don't know?</p> <p>9       <b>A. I don't know.</b></p> <p>10      Q. Now, the Taser X26 that you were using in the 11 Harrison incident, if you just pull the trigger once and 12 let go, it cycles for five seconds, right?</p> <p>13      <b>A. Yes.</b></p> <p>14      Q. Every time you pull the trigger and release it, 15 you get another five-second cycle, correct?</p> <p>16      <b>A. Correct.</b></p> <p>17      Q. Your department has policies about how to 18 respond to persons with mental disorders, right?</p> <p>19      MR. ANDRADA: Objection. Vague and ambiguous.</p> <p>20      Go ahead.</p> <p>21      THE WITNESS: Yes.</p> <p>22      MR. HADDAD: Q. And you understood, before the 23 Harrison incident, that persons affected by mental 24 disorder can be unpredictable and sometimes violent?</p> <p>25      <b>A. Yes.</b></p>

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<p>1       Q. And that when dealing with someone with a 2 mental disorder, you've been trained that you should 3 attempt to communicate with the person and avoid 4 aggravating the situation, right?</p> <p>5       <b>A. Yeah.</b></p> <p>6       Q. And one of the things that you should do 7 because of the unpredictable nature of a person with a 8 mental disorder is have backup available if you need to go 9 hands-on with them, right?</p> <p>10      MR. ANDRADA: Objection. Vague and ambiguous --</p> <p>11      THE WITNESS: Not always.</p> <p>12      MR. ANDRADA: -- overly broad.</p> <p>13      Go ahead.</p> <p>14      THE WITNESS: Not always.</p> <p>15      MR. HADDAD: Q. Do you recall your POST training 16 about persons with disabilities?</p> <p>17      <b>A. I recall having training. Do I recall 18 everything that was taught? That was almost six and a 19 half years ago, so I don't remember everything.</b></p> <p>20      Q. All right. Well, let me just show you this. I 21 only have one copy, but I'll show it to you. This is a 22 copy of a portion of a POST Learning Domain, No. 37, 23 dealing with persons with disabilities.</p> <p>24      Do you see what I'm showing you?</p> <p>25      <b>A. Yes.</b></p>	<p>45</p> <p>1       <b>A. Right.</b></p> <p>2       Q. And you've always been taught repeatedly 3 throughout your enforcement career that when dealing with 4 a mentally ill person, it's very important to calm the 5 situation, right?</p> <p>6       MR. ANDRADA: Objection. Vague and ambiguous, 7 overly broad again.</p> <p>8       Go ahead.</p> <p>9       THE WITNESS: Yes. It's safe to say that you want 10 to try to calm that person down.</p> <p>11      MR. HADDAD: Q. And you want to prevent them from 12 getting aggravated and aggressive, right?</p> <p>13      MR. ANDRADA: Objection. Again, vague and 14 ambiguous.</p> <p>15      Go ahead.</p> <p>16      THE WITNESS: Yeah. You want to try to keep them 17 calm as much as possible.</p> <p>18      MR. HADDAD: Q. You want to avoid conduct on your 19 part that will escalate the situation and lead to a use of 20 force that might otherwise not be necessary, right?</p> <p>21      MR. ANDRADA: Again, vague and ambiguous, overly 22 broad.</p> <p>23      THE WITNESS: Can you rephrase that, please, one 24 more time.</p> <p>25      MR. HADDAD: Could you read that back.</p>
<p>46</p> <p>1       Q. You were given learning domains just like this 2 one when you went through your POST training, right?</p> <p>3       <b>A. Correct.</b></p> <p>4       Q. In fact, you received Learning Domain 37 in 5 your training, didn't you?</p> <p>6       <b>A. Yes, I did.</b></p> <p>7       Q. And that learning domain deals with how you 8 should handle contacts and interactions with someone who 9 has mental illness, right?</p> <p>10      <b>A. Yes. We went over that.</b></p> <p>11      Q. Okay. Let me just show you pages 4-12 of this 12 learning domain. And this is a page where POST describes 13 field contacts with persons with mental illness, and it 14 says, "The following table identifies appropriate tactical 15 actions officers should be aware of," and the first action 16 it says is "Request backup."</p> <p>17      Do you see that?</p> <p>18      <b>A. Okay. Yes.</b></p> <p>19      Q. Do you recall being trained in that, now that 20 I've shown you this?</p> <p>21      <b>A. Vaguely, yes.</b></p> <p>22      Q. And the reason that POST trained you that you 23 should request backup when dealing with a mentally ill 24 person is that the situation can be unpredictable and 25 escalate quickly, right?</p>	<p>48</p> <p>1       (Record read as follows: 2       "QUESTION: You want to avoid 3 conduct on your part that will escalate the 4 situation and lead to a use of force that 5 might otherwise not be necessary, right?" 6       THE WITNESS: Yeah, I guess you can say that. 7       You're not trying to escalate the situation. 8       MR. HADDAD: Q. If you escalate a situation with a 9 mentally ill person and then they get aggravated and lash 10 out at you and you have to go hands on and use force, that 11 creates a risk for both officer and the mentally ill 12 person, right? 13      <b>A. I think it's safe to say.</b> 14      Q. That's not safe for either of you, is it? 15      <b>A. No, sir.</b> 16      Q. Now, when you're working in the jail and you 17 determine that an inmate is mentally disordered because 18 they're acting in a bizarre manner or saying things that 19 don't make any sense, what are you supposed to do? 20      MR. ANDRADA: Objection. Vague and ambiguous, 21 overly broad, calls for a narrative. 22      Go ahead and answer it if you can. 23      THE WITNESS: Can you repeat that question one more 24 time. 25      MR. HADDAD: Q. In the jail when you're dealing</p>

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<p>49</p> <p>1 with an inmate that you decide is mentally disordered 2 because they're acting bizarrely or saying things that 3 just make no sense at all, what are you supposed to do? 4       MR. ANDRADA: Again, vague and ambiguous, overly 5 broad, call -- may call for a narrative. 6       THE WITNESS: Ultimately, you want to look at the 7 totality of what -- what's going on, such as where he's 8 placed, what part of the jail he's placed in. You want to 9 try to isolate that person. You want to definitely note 10 his -- your observations of that person. And you're going 11 to want to try to get some sort of mental health worker 12 there to evaluate. 13       MR. HADDAD: Q. And, in fact, your department's 14 policy is that when a mentally disordered inmate is 15 identified, he shall be immediately segregated from the 16 rest of the inmate population if needed, right? 17       <b>A. Yes.</b> 18       Q. And that that inmate must be followed up by 19 Criminal Justice Mental Health and/or Prison Health 20 Services, right? 21       <b>A. Yes, sir.</b> 22       Q. And it's the responsibility of staff who 23 suspect a disorder to complete and submit the Mental 24 Health Referral Form, correct? 25       <b>A. Clarify what you mean by "staff."</b></p>	<p>51</p> <p>1 information about Martin Harrison? 2       <b>A. My first contact with Mr. Harrison was the</b> 3 <b>night of the 15th, when I arrived to my house.</b> 4       Q. And what happened? 5       <b>A. First time I met him was during pill call,</b> 6 <b>evening pill call, and Mr. Harrison came up asking for</b> 7 <b>medications.</b> 8       Q. About what time was that? 9       <b>A. Approximately 1800 or so.</b> 10       Q. 1800, you say? 11       <b>A. Yes, approximate.</b> 12       Q. And that was the first time that you had ever 13 encountered him? 14       <b>A. Yes.</b> 15       Q. Now, when you encounter an inmate for the first 16 time, do you have his intake information available to you 17 so you can find out about any special needs or medical 18 issues that the inmate has? 19       MR. ANDRADA: Vague and ambiguous as to what you 20 mean by -- I think you used the phrase "intake 21 information." 22       Go ahead. 23       THE WITNESS: If you can clarify what kind of 24 information you're talking about. 25       MR. HADDAD: Q. Well, let me ask you: What kind</p>
<p>50</p> <p>1       Q. Just going by the policy. Let me show it to 2 you. This is Bates No. 283. 3       If you identify a person as mentally disordered, 4 it's your responsibility to make sure that you fill out a 5 mental health referral form, right? 6       MR. ANDRADA: Objection. Vague and ambiguous, 7 overly broad. 8       Go ahead. 9       THE WITNESS: I don't recall the deputy in the 10 housing unit having to do that. I recall a notification, 11 either a call to the CJMH with a verbal referral -- 12 typically, in my experience, I didn't have referral forms. 13       MR. HADDAD: Q. Was this policy called Mental 14 Health Referral Form, Policy No. 13.12, one of those 15 policies you were required to follow? 16       <b>A. Yeah, I mean, it's...</b> 17       Q. And if this policy says you were required to 18 fill out a Mental Health Referral Form, then you were 19 required to fill it out, right? 20       MR. ANDRADA: Assumes facts not in evidence. 21       But go ahead. 22       THE WITNESS: I didn't fill one out. I let my 23 sergeant know of the referral that needed to be done. 24       MR. HADDAD: Q. Let's talk about Martin Harrison. 25       When did you first have any sort of contact or</p>	<p>52</p> <p>1 of information do you have available to you when you first 2 encounter an inmate like Martin Harrison who says he has 3 some sort of medical issue? 4       <b>A. I have a custody card. I have -- he's logged</b> 5 <b>in the computer as being in custody, and I have his</b> 6 <b>classification detail; that when he came in, they</b> 7 <b>classified him to be classified minimum, or wherever he</b> 8 <b>was at this point. He was minimum security.</b> 9       Q. So when you first encountered Martin Harrison, 10 or shortly thereafter, were you aware that he's an 11 alcoholic? 12       <b>A. No.</b> 13       Q. Did you know that he was an alcohol-dependant 14 person when he came into the jail? 15       <b>A. No, sir.</b> 16       Q. Did you ever learn that while he was still 17 alive? 18       <b>A. No, sir.</b> 19       Q. Was that information available to you? 20       MR. ANDRADA: Objection. Vague and ambiguous as to 21 what is meant by "available." 22       But go ahead. 23       THE WITNESS: The only way, typically, that I could 24 find out medical information is by calling the charge 25 nurse and having his file pulled.</p>

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<p>1       MR. HADDAD: Q. When you first encountered Martin 2 Harrison, or shortly thereafter, did you have any 3 information that he had any special medical or psychiatric 4 needs?</p> <p>5       <b>A. No, sir.</b></p> <p>6       Q. So tell me the rest of the -- the rest of this 7 interaction that you had with him. Anything else?</p> <p>8       <b>A. He asked for medications. The nurse went 9 through her book. Didn't find any medications that were 10 prescribed for him. There was no chart for him, nothing, 11 and I issued him a sit call slip.</b></p> <p>12      Q. What did you tell him?</p> <p>13      <b>A. I said, "Fill out this and you can turn it back 14 in and I can give it -- provide it to the nurse for 15 follow-up."</b></p> <p>16      Q. How was his demeanor at that time?</p> <p>17      <b>A. He said, "Okay."</b></p> <p>18      Q. Did there seem like anything off or unusual 19 about him?</p> <p>20      <b>A. His demeanor was, I would describe, as somebody 21 who may have been first time in jail, kind of maybe lost a 22 little bit. Didn't know where he kind of fit in. Wasn't, 23 you know, hanging around any other inmates. He stood in 24 line, asked for medications, and there wasn't any, and I 25 handed him a referral form or sit call slip, asked him to</b></p>	<p>53</p> <p>1       to court that day.</p> <p>2       And Mr. Harrison came out asking for his medication 3 again.</p> <p>4       MR. HADDAD: Q. So this was the second time he'd 5 asked you for medication, right?</p> <p>6       <b>A. Yes, sir.</b></p> <p>7       Q. And the first time you were aware that the 8 nurse looked into it and didn't find any medication, 9 right?</p> <p>10      <b>A. Yes.</b></p> <p>11      Q. What happened this next time he asked you for 12 medication?</p> <p>13      <b>A. I asked the nurse who was there, "Is he on your 14 list?" Typically the list nurse in the 3:30 in the 15 morning have the list of people that are going to court, 16 so they are doing insulin checks; they are doing the 17 medication, so they are getting them before they go to 18 court. And usually it's a much smaller list than what we 19 have in the housing unit. I don't recall how many people 20 are on the list, but, typically, it could be up to 10, 15 21 people.</b></p> <p>22      And I told Mr. Harrison that -- that -- I asked if 23 he turned in his medical slip. I don't recall his answer, 24 but I told him that I still didn't have any medication for 25 him because these are medication for people going to the</p>
<p>54</p> <p>1       <b>fill it out and went on to the next person.</b></p> <p>2       Q. Did he say anything about what medication he 3 wanted or why he wanted it?</p> <p>4       <b>A. I don't recall.</b></p> <p>5       Q. Did you write anything down about that?</p> <p>6       <b>A. No, I did not.</b></p> <p>7       Q. So what's the next information or interaction 8 that you had with him?</p> <p>9       <b>A. Next interaction with him was the following 10 morning.</b></p> <p>11      Q. About when was that?</p> <p>12      <b>A. Approximately 3:30.</b></p> <p>13      Q. So that would have been about 3:30 a.m. of 14 August 16th?</p> <p>15      <b>A. Yes, sir.</b></p> <p>16      Q. And what happened then?</p> <p>17      <b>A. During --</b></p> <p>18      MR. ANDRADA: Well, calls for a narrative.</p> <p>19      But tell him a little bit, but then we got to have 20 the question and answer. So give him a little bit of 21 information and he can follow-up.</p> <p>22      THE WITNESS: I conducted the morning pill call 23 for --</p> <p>24      MR. BURRIS: I'm sorry. What?</p> <p>25      THE WITNESS: Morning pill call for inmates going</p>	<p>54</p> <p>56</p> <p>1       court, and we're doing checks and making sure everybody 2 was okay.</p> <p>3       Q. Did you ask him what kind of medication he 4 thought he needed?</p> <p>5       <b>A. No.</b></p> <p>6       Q. And how was his demeanor at that time?</p> <p>7       <b>A. Again, kind of still remained -- seemed a 8 little lost. I recall there wasn't much change in his 9 mannerism. Again, he -- my observation of him would have 10 been the act of somebody that had -- again, new in jail, 11 doesn't know what to expect, is kind of lost.</b></p> <p>12      Q. Can you recall anything else about your 13 interaction with him at 3:30 in the morning?</p> <p>14      <b>A. No. I told him to go ahead and go back to his 15 pod and we're going to start eating breakfast soon.</b></p> <p>16      Q. So what's your next interaction with him?</p> <p>17      <b>A. That would be approximately -- it was after 18 I -- actually, the pill call, that 3:30 pill call. I 19 don't know exact what time, but I was advised by my 20 technician to respond to Lower D Pod for an inmate who -- 21 to check on an inmate.</b></p> <p>22      Q. Then what happened?</p> <p>23      <b>A. I responded to Lower D Pod to check on the 24 inmate.</b></p> <p>25      Q. Which inmate? Was it Harrison or someone else?</p>

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<p>1       <b>A. It ended up -- well, by the time I got there</b>  2       <b>and found out what was going on, I found it to be</b>  3       <b>Harrison.</b>  4       Q. What did you find there?  5       <b>A. I had several inmates that told me that</b>  6       <b>Mr. Harrison was acting bizarrely; that he needed to be</b>  7       <b>moved out of the pod.</b>  8       Q. Specifically, what did you learn from them?  9       <b>A. Mr. Harrison asked me why there was a bunch of</b>  10      <b>women in his house.</b>  11      Q. What else can you recall?  12      <b>A. I recall the inmates asking me if he could --</b>  13      <b>to take him out of the pod, which I deemed that was an</b>  14      <b>appropriate action.</b>  15      Q. Okay. So at that time, you determined that he  16      didn't even know where he was, right?  17      MR. ANDRADA: Well, objection. Vague and  18      ambiguous. I think it misstates his testimony. You can  19      ask him that question.  20      THE WITNESS: I'm not going to -- I can't say that  21      he absolutely didn't know where he was. He just -- the  22      statements he was making, I felt, was not -- were not  23      statements of somebody that needed to be in -- that --  24      that should be in minimum security at that point with  25      multiple other people.</p>	<p>1       Q. So you determined, at that point, that he was a  2       danger to himself or others, correct?  3       <b>A. Potentially, yes.</b>  4       Q. Do you remember giving an interview to  5       Sergeant Dudek about four or five hours after this  6       incident happened? Not this incident, but the altercation  7       with Mr. Harrison?  8       <b>A. Yes.</b>  9       Q. And that was tape-recorded. Do you remember  10      that?  11       <b>A. Yes.</b>  12       Q. Have you had a chance to listen to that  13      recording?  14       <b>A. I have not listened to it, no.</b>  15       Q. Do you have a transcript of it?  16       <b>A. I have a transcript, I think, in the report,</b>  17       <b>and I briefly went over that.</b>  18       Q. So I also -- I listened to it and I -- and I  19      had a transcript made for me to help me follow it. So let  20      me just ask you about what I heard and see if you recall  21      that or if it sounds accurate to you.  22       So tell me if this is accurate. What I heard you  23      say was, "I was supervising the insulin checks, and he,  24      Harrison, told me, 'It's kind of weird. It's kind of  25      weird how you guys brought me here to my apartment, and</p>

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<p>1       <b>A. Yeah, I think it's safe to say that.</b></p> <p>2       Q. So when you removed him from the D pod, where</p> <p>3       did you take him?</p> <p>4       <b>A. I took him to the East Isolation Center.</b></p> <p>5       Q. And then what happened?</p> <p>6       MR. ANDRADA: Well, okay. You can tell him</p> <p>7       briefly, but, again, I don't want a long narrative.</p> <p>8       He's -- it's appropriate to ask questions and give</p> <p>9       answers, so give him -- give him an answer.</p> <p>10       THE WITNESS: I walked him to the East Isolation</p> <p>11       Cell and I placed him in there.</p> <p>12       MR. HADDAD: Q. And did you stop and take him to a</p> <p>13       nurse or anything along the way?</p> <p>14       <b>A. No, I did not.</b></p> <p>15       Q. You mentioned that he might have said some</p> <p>16       irrational or bizarre things to you at the nurses'</p> <p>17       station.</p> <p>18       At what point in time are you talking about being</p> <p>19       at the nurses' station with him?</p> <p>20       <b>A. That would have been during the pill call.</b></p> <p>21       Q. The 3:30 a.m. pill call or after?</p> <p>22       <b>A. The 3:30, because I wasn't there for the a.m.,</b></p> <p>23       <b>for the one after.</b></p> <p>24       Q. So, previously, I asked you about the 3:30 a.m.</p> <p>25       pill call, and you didn't mention that he was saying</p>	<p>61</p> <p>1       MR. ANDRADA: The question is compound. It's vague</p> <p>2       and ambiguous, argumentative as phrased.</p> <p>3       Go ahead if you can.</p> <p>4       THE WITNESS: I'm trained to note observations, and</p> <p>5       if I feel that he is -- if the person that I'm dealing</p> <p>6       with is in a position where he could either be harmed or</p> <p>7       harm other people, then I determine whether or not to</p> <p>8       remove somebody from that situation. At that point I did.</p> <p>9       MR. HADDAD: Q. And did that trigger certain</p> <p>10       obligations on your part?</p> <p>11       MR. ANDRADA: Objection. Vague and ambiguous.</p> <p>12       THE WITNESS: As far as putting him in the</p> <p>13       isolation cell?</p> <p>14       MR. HADDAD: Yes.</p> <p>15       THE WITNESS: Yes.</p> <p>16       MR. HADDAD: Q. What?</p> <p>17       <b>A. Notified my supervisor and placed an entry in</b></p> <p>18       <b>the observation log, stating his log-in times of him being</b></p> <p>19       <b>there and what he's doing in there. And, if feasible,</b></p> <p>20       <b>notify a mental health worker.</b></p> <p>21       Q. Okay. So did you start a mental health</p> <p>22       observation log?</p> <p>23       <b>A. Yes, I did.</b></p> <p>24       Q. In fact, you've trained other deputies about</p> <p>25       such logs, right?</p>	<p>62</p> <p>1       anything bizarre at that time.</p> <p>2       <b>A. The only thing bizarre he told me was in the</b></p> <p>3       <b>pod. I don't recall anything inside the -- I don't recall</b></p> <p>4       <b>him saying anything like that. I recall him saying that</b></p> <p>5       <b>in the pod.</b></p> <p>6       Q. All right. All right. So when you took him to</p> <p>7       the isolation cell shortly after 3:30 a.m., after you had</p> <p>8       encountered him in the pod again, by then you had</p> <p>9       determined that he was an inmate with a mental disorder,</p> <p>10       correct?</p> <p>11       MR. ANDRADA: Objection. Vague and ambiguous,</p> <p>12       assumes facts not in evidence.</p> <p>13       But go ahead.</p> <p>14       THE WITNESS: I can't say mental disorder. I would</p> <p>15       say that there was definitely something off with him. I'm</p> <p>16       not a clinician. I can't say, yeah, he had a mental</p> <p>17       disorder.</p> <p>18       MR. HADDAD: Q. You're trained to make that</p> <p>19       determination, aren't you?</p> <p>20       <b>A. I'm trained to note observations and remove</b></p> <p>21       <b>somebody if there is a -- somebody that's displaying that,</b></p> <p>22       <b>but I'm not a clinician. I can't diagnose somebody.</b></p> <p>23       Q. You don't have to diagnose the cause of his</p> <p>24       mental disorder, but you are supposed to be able to</p> <p>25       recognize if he has some sort of disorder, right?</p>	<p>63</p> <p>1       <b>A. Yes, sir.</b></p> <p>2       MR. HADDAD: Next exhibit.</p> <p>3       (Plaintiffs' Exhibit 2 was marked for</p> <p>4       identification.)</p> <p>5       MR. HADDAD: I've marked, as Exhibit 2, the mental</p> <p>6       health observation log that you started for Mr. Harrison?</p> <p>7       <b>A. Yes.</b></p> <p>8       Q. And the first entry in the far left is at</p> <p>9       4:20 a.m.</p> <p>10       Are those your initials?</p> <p>11       <b>A. Yes, it is.</b></p> <p>12       Q. So there's a space for remark codes next to it.</p> <p>13       Do you see?</p> <p>14       <b>A. Yes.</b></p> <p>15       Q. And you're supposed to put one of those numbers</p> <p>16       in that's defined in the -- just above the double line</p> <p>17       near the top, right?</p> <p>18       <b>A. Yes.</b></p> <p>19       Q. And those kind of describe what the inmate is</p> <p>20       doing when you look in there, right?</p> <p>21       <b>A. Yes.</b></p> <p>22       Q. So have you been trained about why you're</p> <p>23       supposed to fill in the remark codes to describe the</p> <p>24       inmate's behavior when you observe them?</p> <p>25       <b>A. Yes.</b></p>
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<p>1       Q. And why?</p> <p>2       <b>A. For anybody else that comes up from mental</b></p> <p>3 <b>health that may come in. Anybody that looks at this, they</b></p> <p>4 <b>can see what the person is doing in the course of the day,</b></p> <p>5 <b>in the course of the hours, minutes.</b></p> <p>6       Q. And all of this is -- all of these observations</p> <p>7 listed on here are while Martin Harrison was in that</p> <p>8 isolation cell by himself, correct?</p> <p>9       <b>A. Yes.</b></p> <p>10      Q. So when -- when someone listed code -- Remark</p> <p>11 Code No. 3, that refers to talking, right?</p> <p>12      <b>A. Correct.</b></p> <p>13      Q. So he'd be talking to himself, right?</p> <p>14      MR. ANDRADA: That misstates the document, assumes</p> <p>15 facts not in evidence, calls for this witness to</p> <p>16 speculate.</p> <p>17      So I'm not going to let him answer that question.</p> <p>18 You can rephrase it.</p> <p>19      MR. HADDAD: Q. Who would he be talking to in an</p> <p>20 isolation cell?</p> <p>21      <b>A. Possibly another deputy.</b></p> <p>22      Q. Now, your initials are by the first three</p> <p>23 entries, from 4:20, 4:38, and 4:45 on August 16th, yet</p> <p>24 there's no remark code.</p> <p>25      Why is that?</p>	<p>65</p> <p>1       <b>A. No. You're supposed to fill them in as you do</b></p> <p>2 <b>it.</b></p> <p>3       Q. That's how someone can -- some supervisor can</p> <p>4 tell that you're actually making the observation that you</p> <p>5 say you're making, right?</p> <p>6       <b>A. Yes.</b></p> <p>7       Q. Now, for the times starting at 1803, you listed</p> <p>8 four different times when you observed Martin Harrison in</p> <p>9 the isolation cell, right?</p> <p>10      <b>A. Yes.</b></p> <p>11      Q. How did you observe him those times? Open the</p> <p>12 door? through a window?</p> <p>13      <b>A. Through a window.</b></p> <p>14      Q. And is the window big enough to see pretty much</p> <p>15 the whole cell?</p> <p>16      <b>A. Yeah. I mean, it's a small window. It's</b></p> <p>17 <b>narrow.</b></p> <p>18      Q. So for the exact times that you wrote 1803,</p> <p>19 1816, 1832, and 1848, are those all the exact times that</p> <p>20 you made the observation of Martin Harrison?</p> <p>21      <b>A. Yes. To the best of my recollection, yes.</b></p> <p>22      Q. And if he had been screaming for assistance, is</p> <p>23 that something that you should have noted in the remark</p> <p>24 code?</p> <p>25      <b>A. Yeah, I mean, I could. I didn't. But, yeah, I</b></p>
<p>66</p> <p>1       <b>A. I can't answer that because I don't know why</b></p> <p>2 <b>there's none.</b></p> <p>3       Q. You're supposed to have filled it in, right?</p> <p>4       <b>A. Yes.</b></p> <p>5       Q. Now, your initials are also on the last entries</p> <p>6 on this page, starting from time 1715 through 1848.</p> <p>7       Do you see that?</p> <p>8       <b>A. Yesterday.</b></p> <p>9       Q. I count seven entries with your initials, and</p> <p>10 all of them have the remark code 8 next to them, which</p> <p>11 means awake in bed, correct?</p> <p>12       <b>A. Yes.</b></p> <p>13       Q. Did you fill out all of those remark codes by</p> <p>14 that series of observations?</p> <p>15       <b>A. Yes.</b></p> <p>16       Q. As you made the observations?</p> <p>17       <b>A. Yes.</b></p> <p>18       Q. Did Sergeant Dudek present this to you in the</p> <p>19 hospital about five hours after the altercation and point</p> <p>20 out to you that you had failed to fill in a number of</p> <p>21 entries and had you fill them in after the fact?</p> <p>22       <b>A. That I don't recall.</b></p> <p>23       Q. Would that have been proper procedure?</p> <p>24       <b>A. Filling in after the fact?</b></p> <p>25       Q. Right.</p>	<p>66</p> <p>1       <b>would assume that you put that.</b></p> <p>2       Q. And if he had been flooding his cell, is that</p> <p>3 something that you should note in the remark code or</p> <p>4 somewhere -- somewhere else?</p> <p>5       <b>A. Yeah. You can use -- yeah, you could say that.</b></p> <p>6       Q. Let me put it this way: If at 1848, when you</p> <p>7 looked in and observed him, you saw that he was in the</p> <p>8 process of flooding his cell, is that something that you</p> <p>9 should have noted at that time?</p> <p>10      <b>A. If he was in the act of doing it, yeah.</b></p> <p>11      Q. That would require some sort of action on your</p> <p>12 part, right?</p> <p>13      <b>A. Yeah. I mean, not necessarily -- I mean, yeah,</b></p> <p>14 <b>you would take notice of that. But you can -- yeah, I</b></p> <p>15 <b>guess you would say you would want to at least note it.</b></p> <p>16      Q. Have you had inmates flood their cells before?</p> <p>17      <b>A. Yes.</b></p> <p>18      Q. And, typically, what has been your response</p> <p>19 when you found that an inmate was flooding his cell?</p> <p>20      MR. ANDRADA: Objection. Vague and ambiguous,</p> <p>21 overly broad.</p> <p>22      Go ahead if you can.</p> <p>23      THE WITNESS: It depends on the situation. It</p> <p>24 depends on whether or not they are posing a threat to</p> <p>25 themselves. I mean, just because somebody is flooding a</p>

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<p>69</p> <p>1 cell doesn't mean I'm going to go in there and get them.  2 So I can't say that. It depends on the situation.  3 MR. HADDAD: Q. Have there been incidents in the  4 past when an inmate has flooded his cell and you've  5 allowed them to just continue flooding?  6 <b>A. Yeah, until I can -- I have maybe our</b>  7 <b>maintenance turn off the water.</b>  8 Q. At the top of this observation log, someone has  9 filled out the reason that he's there, and it says,  10 "Bizarre behavior, CJMH referral."  11 Do you see that?  12 <b>A. Yes.</b>  13 Q. Did you write that?  14 <b>A. Yes, I did.</b>  15 Q. It says that this observation was approved by  16 Sergeant Shepard.  17 Do you see that?  18 <b>A. Yes, I do.</b>  19 Q. Is that your handwriting too?  20 <b>A. Yes, it is.</b>  21 Q. When did Sergeant Shepard approve placing  22 Harrison in his observation cell?  23 <b>A. When I called him and let him know that I have</b>  24 <b>one in a isolation cell due to bizarre behavior, and then</b>  25 <b>just letting him know that he was in there, and he said</b></p>	<p>71</p> <p>1 Mr. Harrison during those first three entries?  2 <b>A. He was quiet. He was laying down. That was</b>  3 <b>it.</b>  4 Q. Is that based on your memory?  5 <b>A. What I can recall.</b>  6 Q. Okay. Did you have any other interaction with  7 Harrison other than what you described at that time when  8 you first put him in the cell?  9 <b>A. Not that I can recall.</b>  10 Q. Did you have any other -- strike that.  11 Did you do anything else -- anything else in terms  12 of contacting other people concerning Mr. Harrison around  13 the time that you placed him in the observation cell?  14 MR. ANDRADA: Other than what he's already told  15 you?  16 MR. HADDAD: Yeah.  17 MR. ANDRADA: Okay. Go ahead.  18 THE WITNESS: I may have called our classification  19 and let them know that I may have one that -- depending on  20 if they have a room in Housing 9, I may have asked if  21 there was anybody there from CJMH. I can't recall  22 exactly. I don't recall if I did that or not.  23 MR. HADDAD: Q. Did you do anything else with  24 respect to Harrison before you left your shift for that --  25 that shift?</p>
<p>70</p> <p>1 <b>okay.</b>  2 Q. Okay. So what did you do to inform CJMH about  3 Harrison's condition?  4 <b>A. There was nobody in the mental health office at</b>  5 <b>that time, so I notified Sergeant Shepard, who was the</b>  6 <b>nighttime sergeant and who was going to be getting off</b>  7 <b>shift. I then called -- shortly after that, I called</b>  8 <b>Sergeant Camara, who is the daytime sergeant, and I let</b>  9 <b>him know, and he told me he would be following up with</b>  10 <b>CJMH.</b>  11 Q. And just to be clear, you never filled out a  12 Mental Health Referral Form on Mr. Harrison, did you?  13 <b>A. I don't recall filling one out, no.</b>  14 Q. So what do you recall observing of Martin  15 Harrison for the rest of your shift when you had first  16 placed him in that observation cell? So that would be  17 from 4:20 through 4:45.  18 <b>A. He was --</b>  19 MR. ANDRADA: I'm sorry. Can I have that question  20 back again?  21 MR. HADDAD: I'll say it again.  22 Mr. Andrade, I'm talking about the first night when  23 he placed him in that cell.  24 MR. ANDRADA: Got it. Thank you. Thank you.  25 MR. HADDAD: Q. So what did you observe of</p>	<p>72</p> <p>1 <b>A. Not that I can recall.</b>  2 Q. While you were off duty, did you do anything in  3 connection with Harrison?  4 <b>A. No, I did not.</b>  5 Q. So when you came back on shift, what time was  6 that?  7 <b>A. It would be 1700 shift.</b>  8 <b>Can I take a bathroom break?</b>  9 MR. HADDAD: Sure. Let's take a break.  10 (Recess taken from 2:49 p.m. to 2:57 p.m.)  11 MR. HADDAD: Q. So you left your shift, and Martin  12 Harrison was in the isolation cell, and you returned for  13 your next shift on August 16th at about 1700 hours, right?  14 <b>A. Correct.</b>  15 Q. So your first entry of observing Martin  16 Harrison was at 1715, and you saw he was awake in bed,  17 correct?  18 <b>A. Correct.</b>  19 Q. For those next seven entries that you have on  20 the 16th, can you recall looking in and seeing him doing  21 anything other than just sitting in his bed?  22 <b>A. Yes.</b>  23 Q. What else?  24 <b>A. At one point he was acting really bizarre.</b>  25 Q. What was he doing?</p>

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73  1 <b>A. He was yelling. He was yelling and screaming.</b> 2 <b>He claimed that somebody had a gun and was pointing it at</b> 3 <b>him and he was shooting at him.</b> 4        MR. BURRIS: He was shooting at him? 5        THE WITNESS: That -- that the person who had the 6        gun was shooting at him. And he asked for -- he was just 7        screaming. He had a mattress over his head. I could see 8        that -- at that point, that was the first time I noticed 9        that the cell was flooded and there were broken shards of 10       food tray on the floor. 11       MR. HADDAD: Q. Did he actually have a shard of 12       the food tray in his hand at that time when you first 13       observed? 14 <b>A. To be honest with you, I can't recall.</b> 15       Q. Okay. Sometimes inmates break food trays and 16       they can use the sharp pieces as a weapon, right? 17 <b>A. Yes, sir.</b> 18       Q. How was he flooding his cell? 19 <b>A. The cell was already flooded. I recall he</b> 20 <b>didn't have a blue jail-issued shirt on him. I wasn't</b> 21 <b>exactly sure how he flooded it. My guess is -- I'll just</b> 22 <b>stick with that. I don't know -- I don't recall exactly</b> 23 <b>because he wasn't in the active mode of trying to flood</b> 24 <b>his cell.</b> 25       Q. After the fact, did you learn how he had	75  1        kill me,' he had his mattress over his head, and he was 2        holding, actually, a piece of shattered food tray." 3        Do you recall that now? 4 <b>A. That was two years ago. I don't recall saying</b> 5 <b>that specifically, but if that's what was recorded, I</b> 6 <b>guess I said that. I don't recall that.</b> 7        Q. If you said that, you were being truthful at 8        the time, right? 9 <b>A. Yes.</b> 10       Q. You were trying to give an accurate description 11       of what had just happened to your sergeant, right? 12 <b>A. Yes, sir.</b> 13       Q. And so encountering Harrison in that way where 14       he was screaming things, saying people were trying to kill 15       him, flooding his cell, had taken his shirt off, had a 16       mattress over his head, and had broken a food tray that 17       could have been used as a weapon, all of those were things 18       that were a possible threat either to you or to him, 19       right? 20 <b>A. Yeah. It's safe to say, yes.</b> 21       Q. So what did you do after you looked in the 22       window and observed that scene? 23       MR. ANDRADA: Arguably calls for a narrative. 24       But go ahead. Give him a specific answer to the 25       question and he'll follow up.
74  1       flooded his cell? What means he had used to do it? 2 <b>A. I don't recall the exact -- I don't recall the</b> 3 <b>exact way or mode that he did that. My thought was that</b> 4 <b>he used his jail-issued shirt. But I don't know that</b> 5 <b>100 percent, so.</b> 6       Q. What source of water did he have in there? 7 <b>A. Toilet water.</b> 8       Q. Sink, or anything, too? 9 <b>A. There's a sink.</b> 10       Q. Was the sink running when you looked in there? 11 <b>A. I don't think so. I don't recall that.</b> 12       Q. All right. Now, going back to your statement 13       that you gave to Sergeant Dudek after the incident, when I 14       listened to it, I heard you say the following: "He had 15       his pants on and he had sandals on. He was standing in 16       about roughly -- I would say about an inch to an inch and 17       a half deep water." 18       Does that sound accurate? 19 <b>A. Yes.</b> 20       Q. You went on in your interview: "He had 21       shattered his food trays in the cell which caused me some 22       concern because, at that time, I actually -- previously, 23       when I first saw him when he was screaming, I went just to 24       kind of see what was going on. He actually -- when he was 25       yelling that 'They're coming to get me. They're going to	76  1       THE WITNESS: I vaguely remember -- I think I asked 2       Mr. Harrison what he was doing. 3       MR. HADDAD: Q. How did you speak to him? Through 4       a door? through a mailbox? or what? 5 <b>A. Through the door.</b> 6       Q. Did you open the door? 7 <b>A. No.</b> 8       Q. What do you mean "through the door"? 9 <b>A. There's a window, long narrow window. Below</b> 10 <b>the window is a small box that has little vent holes in it</b> 11 <b>that you can talk through to people.</b> 12       Q. There's also a slot in the door that you can 13       handcuff a person through, right? 14 <b>A. Yes, sir.</b> 15       Q. And in order to safely handcuff an inmate who 16       is potentially combative, you can ask him to put their 17       hands through the slot and you can handcuff them while 18       you're safely outside the cell, right? 19 <b>A. Yes, sir.</b> 20       Q. That's the purpose of that thing in the door, 21       right? 22 <b>A. Yes.</b> 23       Q. Can you recall anything else that you or he 24       said to each other at that time? 25 <b>A. I recall asking why he was doing that. Why he</b>

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77  1 <b>flooded the cell and broke the food tray. And I recall</b> 2 <b>him saying something to the effect of, "I've been in here</b> 3 <b>all day. You guys put me here. What's going on?"</b> 4       Q. How long would it have taken him to flood his 5       cell to a level of an inch to an inch and a half of water? 6 <b>A. Once you get -- I mean, it can take minutes.</b> 7 <b>It doesn't take long. The space isn't that large. I</b> 8 <b>don't have an exact answer for you on that.</b> 9       Q. So what happened next? 10 <b>A. After I noted that he had flooded his cell and</b> 11 <b>I asked him why he did that, I asked him, you know, had he</b> 12 <b>been seen yet that day.</b> 13       Q. Meaning by mental health? 14 <b>A. By anybody regarding why he was in there. And</b> 15 <b>he stated no. Nobody has come to see him.</b> 16       Q. Did you expect that somebody should have come 17     to see him by then? 18 <b>A. Absolutely.</b> 19       Q. Why? 20 <b>A. Because when I, you know, place a -- when I</b> 21 <b>place somebody in isolation cell due to bizarre behavior</b> 22 <b>and I let my sergeant know that a referral needs to be</b> 23 <b>made, I expect that a referral be made and that person be</b> 24 <b>seen.</b> 25       Q. Okay. And does the jail have a rule that the	79  1       THE WITNESS: Depending on severity of the 2       situation, depending on what happens throughout the day 3       for the mental health workers, they have clients that they 4       have to -- inmates that they have to screen and do that 5       also. 6       Can we get that -- repeat that one question, 7       because I lost the train of thought on that one question. 8       MR. HADDAD: Yeah. 9       Q. Typically in your experience, does mental 10      health come in and check out the prisoner and talk to them 11      within a few hours of their placement in an isolation 12      cell? 13       MR. ANDRADA: Objection. Vague and ambiguous, 14       overly broad, "typical" and "a few hours." 15       Go ahead. 16       THE WITNESS: It would depend on the situation and 17      demeanor of that inmate. 18       MR. HADDAD: Q. What usually happens in the jail, 19      based on your experience? 20       MR. ANDRADA: Objection. Vague and ambiguous. 21       Why don't you rephrase the question. 22       MR. HADDAD: I don't want to rephrase the question. 23       I'd like an answer to this one. 24       Q. What usually happens in the jail when a person 25      is placed in an observation cell? How long does it
78  1    person is supposed to be seen very shortly after the 2    placement in the observation cell? 3       MR. ANDRADA: Objection. Vague and ambiguous as to 4    what is meant by "very shortly." 5       Go ahead. 6       THE WITNESS: I don't recall. I don't know of a 7    specific time limit. 8       MR. HADDAD: Q. So why did you have the 9    expectation that he should have been seen by someone by 10   the time you came back on shift at 1700 hours? 11 <b>A. We're talking over 12 hours of someone sitting</b> 12 <b>in one cell and him being monitored by several other</b> 13 <b>deputies. At some point I would have expected that a</b> 14 <b>mental health worker would have been called out.</b> 15       Q. And that's based on your training and 16    experience in the jail, right? 17 <b>A. Yeah. Yes.</b> 18       Q. And typically in that situation, would a mental 19    health worker have come out sooner to talk to the person 20    in that situation -- 21       MR. ANDRADA: Objection. Vague and ambiguous -- 22       MR. HADDAD: Q. -- based on your experience? 23       MR. ANDRADA: -- as to what is meant by 24    "typically." There's no foundation that this is a typical 25    situation.	80  1       usually take mental health to come check on the person? 2       MR. ANDRADA: Listen to the question and answer the 3    question if you can. 4       THE WITNESS: One more time again, please. 5       MR. HADDAD: Q. Based on your experience, how long 6    does it usually take mental health to come check on a 7    prisoner after the prisoner is placed in 8    isolation/observation cell? 9       MR. ANDRADA: Okay. Same objections. Vague and 10    ambiguous, overly broad, no foundation. 11       Go ahead. 12       THE WITNESS: Again, like I said prior, it depends 13    on the severity of the situation. It depends on the 14    availability of a mental health worker. 15       MR. HADDAD: Q. So you're not able to give me 16    any -- any typical time? 17 <b>A. I don't have any -- I don't know of any set</b> 18 <b>time that they are absolutely required to be seen.</b> 19       Q. That wasn't the question. 20       The question was: In your experience, how long 21    does it usually take? It's a very simple question. 22 <b>A. I --</b> 23       MR. ANDRADA: You're arguing with him -- 24       Hang on. Hang on. Stop. 25       You're arguing with him. He's answered the

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<p>1 question, so I'm going to instruct him not to answer    2 because he's already provided you an answer.    3 MR. HADDAD: All right. I've refrained from --    4 from pointing this out to you, but you're coaching the    5 witness and you're making improper objections, and you    6 know better, Randy. And, furthermore, "calls for a    7 narrative" is not a proper deposition objection, so I want    8 you to stop obstructing the deposition, and if you    9 continue, we're going to call a magistrate.    10 MR. ANDRADA: May I respond?    11 MR. HADDAD: Sure.    12 MR. ANDRADA: In my experience, it is an    13 appropriate objection, and I believe I've only instructed    14 him to not answer one question, even though we've been    15 here for three hours or so, and the questions are    16 remarkably broad and vague and ambiguous. So if we can    17 get some specific questions, I would be most appreciative.    18 MR. BURRIS: I think we always bicker on this point    19 here. Those questions have not been vague and ambiguous.    20 That's your objection, but they haven't been, and I think    21 the objection you just made about don't answer the    22 question on that last question, that's not a proper    23 objection basis to tell a person not to answer the    24 question, because it was not about privilege. It may have    25 been an objection that it was asked and answered, but</p>	<p>1 you expected that to have been done already, correct?    2 <b>A. Yes.</b>    3 Q. All right. So after asking him whether he'd    4 been seen by anybody and he told you no, what happened    5 next?    6 <b>A. I think I told him something to the effect of,</b>    7 <b>"Let me try to call mental health and see if there's</b>    8 <b>anybody in the office to try to find out why."</b>    9 Q. Did you do that?    10 <b>A. I recall calling CJMH, yes.</b>    11 Q. What did you -- what was your interaction with    12 CJMH at that point?    13 <b>A. I spoke to a Megan Hast, who was working at</b>    14 <b>that time, and I asked her if she had any reason why he</b>    15 <b>had not been seen.</b>    16 Q. What did she say?    17 <b>A. She told me something to the effect of that</b>    18 <b>she hadn't -- they hadn't gotten to Mr. Harrison because</b>    19 <b>with all the other people -- the inmates that they had to</b>    20 <b>see and the max then, the mental health inmates, and</b>    21 <b>Ad-Seg inmates, that they just hadn't gotten around to it.</b>    22 Q. Did you make that call to Megan Hast after you    23 had seen his cell flooded and the other scene that you've    24 described?    25 <b>A. I don't recall if it was before or after. I</b></p>	

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<p style="text-align: right;">85</p> <p>1 he had flooded his cell -- you're talking about when he 2 flooded and --</p> <p>3 MR. HADDAD: Yes.</p> <p>4 THE WITNESS: When I saw that he had flooded his 5 cell, again, I asked him why he had done that. He 6 responded by saying he'd been in there all day. This was 7 after he was yelling, screaming with the mattress on his 8 head. And at that point I recall -- or I vaguely remember 9 telling him, you know, "Let me try to get -- find out why 10 you haven't been seen." But from there, my concern -- I'd 11 already spoken to -- I want to say I had already spoken to 12 Ms. Hast prior to that.</p> <p>13 MR. HADDAD: Q. So did you try to recontact her?</p> <p>14 <b>A. I don't think so, because I recall Ms. Hast</b> <b>saying that she was finishing up with her client and that</b> <b>she would be out to the housing unit as soon as she can.</b></p> <p>15 Q. How many other deputies or jail staff were 16 working in that housing unit or near that housing unit at 17 that time?</p> <p>18 MR. ANDRADA: Vague and ambiguous as to what you 19 mean by "near that housing unit."</p> <p>20 Go ahead.</p> <p>21 THE WITNESS: At that time -- at that time, I 22 thought I was the only one on the minimum side.</p> <p>23 MR. HADDAD: Q. So that was at about 6:30 p.m. or</p>	<p style="text-align: right;">87</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. In fact, based on your training and experience, 3 the jail encouraged you to ask for assistance if you were 4 having to deal with a potentially dangerous situation with 5 an inmate alone in a cell, right?</p> <p>6 <b>A. For a noncompliant person, yes.</b></p> <p>7 Q. Okay. Now, once you found out from him that he 8 hadn't been seen by mental health, what's the next thing 9 that happened in your interaction with Mr. Harrison?</p> <p>10 <b>A. I recall telling him that there was going to be</b> <b>somebody coming out to -- to see him and that I wanted to</b> <b>move him because of the situation in the cell.</b></p> <p>11 Q. You explained to him that you wanted to move 12 him, right?</p> <p>13 <b>A. Yes, and my reasons for moving him.</b></p> <p>14 Q. What's the next thing you did?</p> <p>15 <b>A. I explained the reason why I wanted to move</b> <b>him.</b></p> <p>16 Q. What was his response?</p> <p>17 <b>A. He said, "Okay, Deputy Ahlf."</b></p> <p>18 Q. Then what happened?</p> <p>19 <b>A. At that point, I opened the door. He was</b> <b>compliant. I asked him to turn around, put his hands on</b> <b>top of his head and walk towards my voice.</b></p> <p>20 Q. And what was your plan at that point? What was</p>
<p style="text-align: right;">86</p> <p>1 even 7:00 p.m., right?</p> <p>2 MR. ANDRADA: Objection. Vague and ambiguous, 3 compound.</p> <p>4 MR. BURRIS: He hadn't even finished his question 5 yet.</p> <p>6 MR. ANDRADA: Well, then, we can -- all right. As 7 a courtesy, we'll back up. I'll wait for the whole 8 question --</p> <p>9 MR. HADDAD: What a waste of time this is. Let me 10 ask a different question.</p> <p>11 MR. ANDRADA: Good.</p> <p>12 MR. HADDAD: Q. What time did you notice that he 13 flooded his cell?</p> <p>14 <b>A. I don't recall an accurate time, to be honest</b> <b>with you.</b></p> <p>15 Q. If you refer to the log, does it help you 16 estimate the time?</p> <p>17 <b>A. Approximately between -- approximately the</b> <b>1832-ish, somewhere around there.</b></p> <p>18 Q. All right.</p> <p>19 <b>A. Approximate.</b></p> <p>20 Q. All right. So if you needed help or backup at 21 that point, was there someone you could ask?</p> <p>22 <b>A. I could call for an additional deputy.</b></p> <p>23 Q. That was available to you in the jail, right?</p>	<p style="text-align: right;">88</p> <p>1 your -- what were you trying to do?</p> <p>2 <b>A. My goal was to move him. My objective was to</b> <b>move him to the other isolation cell because I wanted to</b> <b>get him away from the water, the shards of tray, and put</b> <b>him in a dry room -- or a cell that would be more feasible</b> <b>for a proper evaluation from a mental health staff worker.</b></p> <p>3 Q. And first you needed to handcuff him in order 4 to move him, right?</p> <p>5 <b>A. You don't have to. It's your option, depending</b> <b>on his -- depending on the mannerisms and depending on</b> <b>the -- what you feel is -- what I felt was either a</b> <b>threat, nonthreat, a precaution.</b></p> <p>6 Q. All right. On this occasion, did you decide 7 whether to handcuff him or not when you were going to move 8 him?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. What was your decision?</p> <p>11 <b>A. When he got to the doorway, I was going to</b> <b>handcuff him.</b></p> <p>12 Q. Why did you decide that you were going to 13 handcuff him?</p> <p>14 <b>A. Due to his behavior. You know, he was just --</b> <b>when I'm moving an inmate, typically, depending on --</b> <b>again, you're looking at the totality of everything. I'll</b> <b>move and put handcuffs on him for security reasons to</b></p>

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<p>1   <b>properly move him from one area to another area.</b></p> <p>2       Q. Given the way he'd been acting, did you decide</p> <p>3       he could be dangerous and, therefore, you needed to</p> <p>4       handcuff him?</p> <p>5       <b>A. At that point, no. Yeah, I mean, he was acting</b></p> <p>6       <b>bizarre, but as I talked with him, he was completely</b></p> <p>7       <b>coherent, compliant, not a threat at that point.</b></p> <p>8       Q. But for your safety and his, you decided to</p> <p>9       handcuff him. Is that correct?</p> <p>10      <b>A. Once he got to the doorway, yes.</b></p> <p>11      Q. And you did so by opening the door, right?</p> <p>12      <b>A. Yes.</b></p> <p>13      Q. Did you have a Taser in one hand?</p> <p>14      <b>A. After I opened the door, yes, I did.</b></p> <p>15      Q. Why did you have a Taser in one hand?</p> <p>16      <b>A. Just in case something were to happen.</b></p> <p>17      Q. Again, you're anticipating the possibility that</p> <p>18      there could be a threat inside that cell, right?</p> <p>19      <b>A. You always anticipate, yeah. You always</b></p> <p>20      <b>anticipate the possibility.</b></p> <p>21      Q. Do you always have a Taser in one hand when you</p> <p>22      open a cell door to move somebody?</p> <p>23      <b>A. Not always.</b></p> <p>24      Q. This time you decided that would be prudent,</p> <p>25      right?</p>	<p>1       MR. ANDRADA: Asked and answered.</p> <p>2       But go ahead again.</p> <p>3       THE WITNESS: Yes. It would be available.</p> <p>4       MR. HADDAD: Q. So can you please describe what</p> <p>5       happened when you opened the door with the Taser in one</p> <p>6       hand, preparing to handcuff Mr. Harrison.</p> <p>7       <b>A. I specifically asked Harrison to face away from</b></p> <p>8       <b>me, because he was near the bench at the far end of the</b></p> <p>9       <b>cell, turn away from me and put his hands on top of his</b></p> <p>10      <b>head and walk back towards my voice. Once he got to the</b></p> <p>11      <b>doorway, I told him to stop, and I told him I was going to</b></p> <p>12      <b>handcuff him, and I was going move him to the East</b></p> <p>13      <b>Isolation Cell; because, at this time, he had been moved</b></p> <p>14      <b>already in the course of the day. Everything was -- I</b></p> <p>15      <b>mean, he was fine. He agreed okay.</b></p> <p>16      At that time, my conversation with him throughout</p> <p>17      the whole entire -- I didn't see there being a threat. He</p> <p>18      seemed to be cooperative. He seemed to be compliant with</p> <p>19      my -- my verbal orders and my request. And I asked him to</p> <p>20      put one hand, the right hand, behind his back, and I put</p> <p>21      away my Taser, and I was proceeding to put a handcuff on</p> <p>22      him. And, at that point, he proceeded to turn his head</p> <p>23      towards me and just give me an unsettling, just blank</p> <p>24      stare. And it wasn't until that point that I felt that --</p> <p>25      not that he was going to do something, but something just</p>

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<p>1 At that point, I felt him tense up."</p> <p>2 Do you recall that?</p> <p>3 <b>A. I recall having my left hand -- I recall -- I</b></p> <p>4 <b>believe that my Taser was already in the holster, but, you</b></p> <p>5 <b>know, as I grabbed hold -- I know -- I can say for sure I</b></p> <p>6 <b>grabbed hold of his -- my left hand on his right wrist.</b></p> <p>7 Q. Okay.</p> <p>8 <b>A. And proceeding to -- I can't recall at this</b></p> <p>9 <b>point -- I can't recall -- I thought my Taser was already</b></p> <p>10 <b>put away at that point.</b></p> <p>11 Q. So you're not sure one way or the other if you</p> <p>12 had your Taser out still or you had already put it away,</p> <p>13 correct?</p> <p>14 <b>A. I just can't recall that particular.</b></p> <p>15 Q. Okay. All right. So then I heard you say,</p> <p>16 "Once I felt him tense up, I just kind of had this every</p> <p>17 feeling at this point. He kind of gave me a look. I</p> <p>18 can't really describe the look. It just looked like -- it</p> <p>19 was like that thousand-yard stare that went right through</p> <p>20 you, and at that point I got that sixth sense that</p> <p>21 something is about to happen."</p> <p>22 Is that accurate still?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. So what happened next?</p> <p>25 <b>A. I decided not to handcuff him because, at that</b></p>	<p>1 Q. And is it closer to the back wall or closer to</p> <p>2 the front wall or about in the middle?</p> <p>3 <b>A. Closer to the front.</b></p> <p>4 Q. So you push him back in the direction of the</p> <p>5 back wall, right?</p> <p>6 <b>A. Correct.</b></p> <p>7 Q. Then what happened?</p> <p>8 <b>A. He turned around and I told him to please sit</b></p> <p>9 <b>on the bench.</b></p> <p>10 Q. And then what?</p> <p>11 <b>A. Then he proceeded to just stand there. And at</b></p> <p>12 <b>this point I told him to sit down on the bench again, and</b></p> <p>13 <b>he took one step towards me. So, at that point, I took</b></p> <p>14 <b>out my Taser.</b></p> <p>15 Q. Then what happened?</p> <p>16 <b>A. Told him to "Have a seat. I'm not going to</b></p> <p>17 <b>tell you again. If you come any further towards me,</b></p> <p>18 <b>you're going to get tased."</b> And at this point I had my</p> <p>19 Taser. He proceeded to take a -- I don't want to call it</p> <p>20 running towards me, but he proceeded to take a couple of</p> <p>21 steps towards me in which I took that as a direct threat</p> <p>22 and I deployed my Taser.</p> <p>23 Q. All right. So starting from the back wall, he</p> <p>24 took one step towards you, right?</p> <p>25 <b>A. Took one -- yeah, one step.</b></p>
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<p>1 <b>point, again, I felt that there was something strange</b></p> <p>2 <b>about his -- just that blank stare he gave me.</b></p> <p>3 Q. So what did you do?</p> <p>4 <b>A. I put my cuffs away and I kind of just gently</b></p> <p>5 <b>nudged him back into the cell. I told him to please have</b></p> <p>6 <b>a seat on the bench.</b></p> <p>7 Q. Was it a gentle nudge or was it a hard shove?</p> <p>8 <b>A. I don't recall shoving him. I believe it was a</b></p> <p>9 <b>nudge. He didn't go very far.</b></p> <p>10 Q. And did he move, then, all the way to the back</p> <p>11 of the cell?</p> <p>12 <b>A. I don't recall exactly how far back he went.</b></p> <p>13 <b>He was -- maybe -- I mean, he was approximately -- maybe</b></p> <p>14 <b>4, 5 feet away from me.</b></p> <p>15 Q. Now, there's a bench at the back of the cell,</p> <p>16 right?</p> <p>17 <b>A. Yes, sir.</b></p> <p>18 Q. How far -- what's the distance from the back</p> <p>19 wall of the cell to the door where you were standing?</p> <p>20 <b>A. Frankly, I don't have that measurement.</b></p> <p>21 Q. Can you estimate?</p> <p>22 <b>A. Approximately 7 to 9 feet maybe.</b></p> <p>23 Q. And there's a toilet somewhere along the side</p> <p>24 wall, right?</p> <p>25 <b>A. On the left, yeah.</b></p>	<p>1 Q. And you told him, again, to sit down.</p> <p>2 <b>A. Right.</b></p> <p>3 Q. And you were pointing the Taser at him, right?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And then he took two more steps towards you,</p> <p>6 right?</p> <p>7 <b>A. He took one more step. At that second time he</b></p> <p>8 <b>stepped, I told him, "Sit down. I'm not going to tell you</b></p> <p>9 <b>again."</b></p> <p>10 Q. And then what happened?</p> <p>11 <b>A. He took a fast motion towards me --</b></p> <p>12 Q. Uh-huh.</p> <p>13 <b>A. -- in an aggressive manner --</b></p> <p>14 Q. Uh-huh.</p> <p>15 <b>A. -- and I deployed my Taser.</b></p> <p>16 Q. And it was because of that fast motion towards</p> <p>17 you in an aggressive manner that caused you to decide to</p> <p>18 deploy your Taser. Is that right?</p> <p>19 <b>A. Yes, it was.</b></p> <p>20 Q. Was he running towards you?</p> <p>21 <b>A. I wouldn't -- I can't say that he was</b></p> <p>22 <b>sprinting, running. I mean, it happened so fast. I mean,</b></p> <p>23 <b>he took -- I mean, it was a lot faster than just taking a</b></p> <p>24 <b>step.</b></p> <p>25 Q. Okay.</p>

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<p style="text-align: right;">97</p> <p>1       <b>A. It was an active motion, more than one step</b>    2 <b>towards me.</b></p> <p>3       Q. Okay. But you wouldn't describe it as running    4 at you, would you?</p> <p>5       <b>A. I can't say "yea" or "nay" on that -- "yes" or</b>    6 <b>"no" on that. I may have said, yeah, he ran at me, but at</b>    7 <b>the time, it seemed like he was running at me because t</b>    8 <b>was fast.</b></p> <p>9       Q. Well, I'm asking you what you remember, not    10 what you said.</p> <p>11       Did he run at you or not?</p> <p>12       <b>A. I can't recall if he ran at me. He took -- let</b>    13 <b>me ask you a question. What do you call "running"?</b></p> <p>14       MR. BURRIS: We don't answer questions.</p> <p>15       THE WITNESS: My apologies.</p> <p>16       MR. BURRIS: And that's fine. That's fine. I    17 don't mean any disrespect.</p> <p>18       THE WITNESS: And I --</p> <p>19       MR. ANDRADA: Stop.</p> <p>20       THE WITNESS: I apologize.</p> <p>21       MR. ANDRADA: Stop.</p> <p>22       Objection to "running," vague and ambiguous.</p> <p>23       As you understand "running," you can answer the    24 question.</p> <p>25       THE WITNESS: My understanding of running, it's a</p>	<p style="text-align: right;">99</p> <p>1       <b>A. I think I have his report. I don't know if I</b>    2 <b>have the transcript.</b></p> <p>3       Q. All right. Well, here's -- here's what I heard    4 you say to Sergeant Ritter. "He basically took two steps    5 towed me. I told him to stop, have a seat, you know,    6 don't advance anymore. He took two more steps toward me.    7 I told -- I said, 'Hey, do not make any more steps or else    8 I'm going to tase you. All right?"</p> <p>9       Do you remember that?</p> <p>10       <b>A. I remember vaguely the confrontation. I can't</b>    11 <b>remember exactly. I mean, if that's what is written on</b>    12 <b>his -- transcribed, I would assume that I probably said</b>    13 <b>that.</b></p> <p>14       Q. And then you told Sergeant Ritter, "I can't    15 recall seeing his fists clenched or anything like that,    16 but when I told him to sit down, he kind of looked --    17 looked my way, took two real quick steps toward me, and at    18 that point I was afraid he was going to be rushing me, so    19 I deployed my Taser." Is that accurate?</p> <p>20       <b>A. Yeah, based off of what I can recall.</b></p> <p>21       Q. And what happened after you deployed your    22 Taser?</p> <p>23       <b>A. Mr. Harrison kind of stepped backwards a little</b>    24 <b>bit and ended up falling down onto the corner of the bench</b>    25 <b>and got right back up and proceeded to run out the door.</b></p>
<p style="text-align: right;">98</p> <p>1 fast motion. He took a fast motion. So I would say, in    2 context to that, he moved in a very fast motion towards    3 me.</p> <p>4       MR. HADDAD: Q. But as you sit here today, you    5 wouldn't describe it as run, would you?</p> <p>6       MR. ANDRADA: Asked and answered.</p> <p>7       But go ahead again.</p> <p>8       THE WITNESS: I can describe it as a fast motion.</p> <p>9       Running is more than two, three steps. It's actually a    10 motion. It's more like sprinting, running. I wouldn't    11 describe it as running. I would describe it as he came at    12 me in a fast motion.</p> <p>13       MR. HADDAD: Q. All right. Now, Sergeant Ritter    14 asked you about this too.</p> <p>15       Do you remember that?</p> <p>16       <b>A. I don't recall him asking me, but I'm sure he</b>    17 <b>did if you're asking that.</b></p> <p>18       Q. This is another one of those transcripts that    19 you had available to you to review before your deposition,    20 right?</p> <p>21       <b>A. Um-hmm.</b></p> <p>22       Q. "Yes"?</p> <p>23       <b>A. Yes.</b></p> <p>24       Q. Had you taken the time to read the transcript    25 of the Ritter interview and the Dudek interview of you?</p>	<p style="text-align: right;">100</p> <p>1       Q. Okay. Now, when you fired the Taser, where was    2 he in the cell?</p> <p>3       <b>A. Within approximately 4 feet of me.</b></p> <p>4       Q. Do you recall that he was close to the toilet?</p> <p>5       <b>A. I don't recall him being particularly close to</b>    6 <b>the toilet, no.</b></p> <p>7       Q. And by deploying the Taser, as you're    8 describing, you pulled the trigger and it fired the Taser    9 darts in his direction, right?</p> <p>10       <b>A. Yes.</b></p> <p>11       Q. And did those Taser darts connect with him?</p> <p>12       <b>A. They seemed to be, yes.</b></p> <p>13       Q. Because the next thing you observed was that    14 the Taser appeared to be sending electricity into him,    15 right?</p> <p>16       <b>A. Correct.</b></p> <p>17       Q. What did that look like?</p> <p>18       MR. ANDRADA: Objection. Vague and ambiguous.</p> <p>19       Go ahead if you can.</p> <p>20       THE WITNESS: Can you --</p> <p>21       MR. HADDAD: Q. What did you see when you saw him    22 getting tased?</p> <p>23       MR. ANDRADA: Okay.</p> <p>24       THE WITNESS: He -- he fell down onto the -- kind    25 of backed up, went onto the bench, immediately got right</p>

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<p style="text-align: right;">101</p> <p>1 back up and began saying something to the effect of, "I'm 2 going to kick your ass," and began running at me. 3 MR. HADDAD: Q. How many Taser cycles did you 4 deploy at that time? 5 <b>A. I deployed one. Once, just that time, and one</b> 6 <b>more later on.</b> 7 Q. Okay. But right at that time when you had 8 fired the darts at him, did you pull the trigger to the 9 Taser almost immediately after the first cycle was done 10 for a second activation? 11 MR. ANDRADA: Go ahead. 12 THE WITNESS: No, I don't recall doing that. 13 MR. HADDAD: Q. Now, you're aware -- strike that. 14 You're aware that the Taser actually maintains a 15 log of deployment, right? 16 <b>A. Yes.</b> 17 Q. Have you reviewed that -- 18 <b>A. Yes.</b> 19 Q. -- for this? 20 And are you aware that the Taser that you were 21 using shows that it was activated for a second five-second 22 cycle, starting about two seconds after the first one 23 ended? 24 <b>A. I recall there being a record of it.</b> 25 Q. Do you have any explanation for why the Taser</p>	<p style="text-align: right;">103</p> <p>1 Q. And is -- 2 <b>A. I'm sorry. Something -- I can't remember</b> 3 <b>exactly what he said, but something in that realm,</b> 4 <b>something like that. It wasn't like, "Hey, how you</b> 5 <b>doing?" It was, "I'm going to kick your ass." I can't</b> 6 <b>remember exactly what he said.</b> 7 Q. Okay. He could have said something different, 8 but you're not sure, right? 9 <b>A. Correct.</b> 10 Q. He might not have threatened you actually with 11 kicking your ass. Is that accurate? 12 MR. ANDRADA: Objection. Vague and ambiguous. 13 THE WITNESS: I recall there being a threat. 14 MR. ANDRADA: Okay. 15 MR. HADDAD: Q. Do you recall telling either 16 Sergeant Ritter or Sergeant Dudek that while you were 17 tasing him, he was saying something like, "Oh you 18 motherfucker," as he was screaming in pain? 19 <b>A. I don't recall exactly saying that. I'm not</b> 20 <b>saying that I didn't, but I don't recall that</b> 21 <b>specifically.</b> 22 Q. Here's what I heard you tell Sergeant Dudek 23 shortly after the incident. I heard you say, "He fell 24 backwards onto the bench, and as he's falling backwards 25 and he's going through the five-second -- what we call</p>
<p style="text-align: right;">102</p> <p>1 would show it was activated two seconds after the first 2 cycle ended for another four- or five-second cycle? 3 <b>A. I can't give you an explanation of that.</b> 4 Q. Have you ever known a Taser to activate without 5 someone pulling the trigger? 6 <b>A. Once.</b> 7 Q. Did that happen to you? 8 <b>A. No.</b> 9 Q. Were you there when it happened? 10 <b>A. No.</b> 11 Q. You heard about it? 12 <b>A. Yes.</b> 13 Q. Who did you hear about it from? 14 <b>A. It was another deputy.</b> 15 Q. Now, you still had the Taser in your hand after 16 you tased him, right? 17 MR. ANDRADA: Objection. Vague and ambiguous as to 18 time. 19 But go ahead. 20 THE WITNESS: During the time that I tased him, 21 yes. Right after I tased him, yes. 22 MR. HADDAD: Q. Now, you said that right after the 23 first cycle of the Taser, he threatened you and said he's 24 going to kick your ass. Is that right? 25 <b>A. Right.</b></p>	<p style="text-align: right;">104</p> <p>1 'the ride,' in a sense, the five seconds that the Taser is 2 actually used, he's still speaking coherently. He's 3 not -- he's, like, yelling, like, 'Ah,' like it kind of 4 hurts, but he's, like, 'You motherfucker, you 5 motherfucker.' I mean, I can understand everything that 6 he says, which is different than anyone else I've ever 7 tased before. Usually when you tase somebody, you know, 8 it's hard for them to speak." 9 Does that sound accurate? 10 <b>A. Yes.</b> 11 Q. So after you finished tasing him, what happened 12 next? 13 <b>A. During the five seconds' deployment of that, he</b> 14 <b>immediately got right back up and charged at me.</b> 15 Q. And then what happened? 16 <b>A. As he came out, I stepped to the side.</b> 17 <b>Mr. Harrison slipped on the water, did something, but he</b> 18 <b>ended up slipping down and sliding out of the cell, and as</b> 19 <b>he was sliding out, he grabbed a hold of my leg which</b> 20 <b>caused me to fall down.</b> 21 Q. When you said he started charging towards you, 22 you were still at the door, right? 23 <b>A. Yes.</b> 24 Q. Okay. Do you know whether he was trying to get 25 to you or trying to get out the door?</p>

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105	<p>1       <b>A. I -- I don't know.</b></p> <p>2       Q. Okay. And as he fell down, how did he fall?</p> <p>3       <b>A. From what I can recall, his -- as he came out, it seemed like he slipped and kind of fell feet first and slid out of the cell so his head was facing isolation cell.</b></p> <p>7       Q. Okay. So it looked like he slipped and fell backwards onto his buttocks?</p> <p>9       <b>A. Yeah. I guess you could safely say that, yeah.</b></p> <p>10      Q. So -- so what was his position on the floor when he grabbed you?</p> <p>12      <b>A. He was still sliding as he grabbed me.</b></p> <p>13      Q. And where did he grab you?</p> <p>14      <b>A. He just held on to my -- my leg. I'm not sure which one. But held on to it, which, as I tried to move, caused me to slip and fall, because now the floor became wet.</b></p> <p>18      Q. And when you fell, where did you fall?</p> <p>19      <b>A. Fell on my left side, on my left shoulder.</b></p> <p>20      Q. Did you fall right on top of him?</p> <p>21      <b>A. No, I did not.</b></p> <p>22      Q. So you fell onto the floor?</p> <p>23      <b>A. Yes, I did.</b></p> <p>24      Q. All right. Now, if someone else were to say that they saw this happened and what they saw was that</p>	107	<p>1       <b>A. Yes.</b></p> <p>2       Q. And is that the position that Mr. Harrison was in on the floor?</p> <p>4       <b>A. Yes. He was kind of on his right -- kind of on his right -- kind of on his right side. He was -- at this point, he had turned around and he was more so on his right side. I was on top of him, meaning his left side. So asking to give me his hands. I couldn't see his hands at that point. He was trying to free his hands -- all right? -- of what I thought was to possibly try to hit me, try to strike me. He was thrashing his legs around to -- what I thought to possibly either gain -- gain stability on his legs and/or try to kick me. He was grimacing. He was threatening to spit. He had his mouth open, which I thought was he may try to bite me. I was actively telling him to stop resisting.</b></p> <p>17      Q. What were you doing physically to him?</p> <p>18      <b>A. When he refused to comply with my verbal orders, I gave two open strike -- two open-palm strikes to the back of the head.</b></p> <p>21      Q. Let me stop you there.</p> <p>22      So what was his body position when you struck him in the back of the head with your open palm?</p> <p>24      <b>A. At this time, he's face down.</b></p> <p>25      Q. So he was face down on the floor.</p>
106	<p>1       Harrison slid out the door and you pounced on top of him, would that be wrong?</p> <p>3       <b>A. After I slid down, it would be -- I got on top of him after I got up from falling down.</b></p> <p>5       Q. So you're saying that after you fell down on the floor, you got up and then got on top of him. Is that right?</p> <p>8       <b>A. Correct. My Taser got dislodged.</b></p> <p>9       Q. What happened next?</p> <p>10      <b>A. I got on top of him and I struggled with him.</b></p> <p>11      Q. So, specifically, what happened between the two of you?</p> <p>13      <b>A. I -- he held his arms inside, wasn't giving me his arms. I was actively telling him to "Stop resisting, give me your hand. Stop resisting, give me your hand." He was actively resisting, trying to kick, trying to get his arms free.</b></p> <p>18      Q. Let me stop you here --</p> <p>19      <b>A. Okay.</b></p> <p>20      Q. -- so that you don't give a long narrative, and I'll ask a couple of questions.</p> <p>22      MR. ANDRADA: I appreciate it.</p> <p>23      MR. HADDAD: Q. You just made a motion, showing both of your forearms up close against your chest bent at the elbow. Is that right?</p>	108	<p>1       Where were his arms and hands?</p> <p>2       <b>A. I can't recall exactly. It was -- I was -- he was in a position where I couldn't get compliance with his hands at all.</b></p> <p>5       Q. So you're on top of him and he's face down, and that's when you hit him twice on the back of the head?</p> <p>7       <b>A. Correct.</b></p> <p>8       Q. Did you hit him anywhere else?</p> <p>9       <b>A. I delivered strikes to his back, and I delivered knee strikes to his torso area.</b></p> <p>11      Q. Okay. How did you deliver the strikes to his back? With a closed fist?</p> <p>13      <b>A. Yes, sir.</b></p> <p>14      Q. How many strikes?</p> <p>15      <b>A. I don't recall exactly how many.</b></p> <p>16      Q. Can you give us an estimate?</p> <p>17      <b>A. Three, four maybe. Not all at once.</b></p> <p>18      Q. Where on his back?</p> <p>19      <b>A. Approximately maybe in his -- on his left side.</b></p> <p>20      Q. Left side of his back?</p> <p>21      <b>A. On his -- I'm trying to recall. I can't recall exactly where.</b></p> <p>23      Q. Where did you deliver the knee strikes?</p> <p>24      <b>A. Knee strikes would have been to the torso area. I think that was more on his left side.</b></p>

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<p>1 Q. Like his left ribs area?</p> <p>2 <b>A. I don't know if it was his rib area or his</b></p> <p>3 <b>stomach area, but it was in the vicinity of the area.</b></p> <p>4 Q. So on his left side, either at the ribs or</p> <p>5 lower by the stomach. Is that right?</p> <p>6 <b>A. Yes, sir.</b></p> <p>7 Q. And how many knee strikes did you deliver</p> <p>8 there?</p> <p>9 <b>A. I don't recall. Maybe one or two.</b></p> <p>10 Q. What was your body position as you were</p> <p>11 striking him with your knee?</p> <p>12 <b>A. I was on top of Mr. Harrison.</b></p> <p>13 Q. Which knee?</p> <p>14 <b>A. I don't recall. I don't recall.</b></p> <p>15 Q. Have you had any training in knee strikes?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. Where?</p> <p>18 <b>A. Academy.</b></p> <p>19 Q. Do you have any martial arts training in your</p> <p>20 background?</p> <p>21 <b>A. No, I do not.</b></p> <p>22 Q. What's your height?</p> <p>23 <b>A. Five foot six.</b></p> <p>24 Q. How much did you weigh at the time?</p> <p>25 <b>A. Maybe 185, 190.</b></p>	<p>1 Q. Have you had a chance to review your statement</p> <p>2 to him or a summary of it?</p> <p>3 <b>A. I haven't really gone over in detail.</b></p> <p>4 Q. But the forces you've described for us today</p> <p>5 all happened while he was face down and you were</p> <p>6 essentially on his back. Is that right?</p> <p>7 <b>A. Yes. With him thrashing around, yes.</b></p> <p>8 Q. And what was the purpose of the punches to his</p> <p>9 back area?</p> <p>10 <b>A. Trying to gain compliance to have him give me</b></p> <p>11 <b>his arms.</b></p> <p>12 Q. And how did you believe that punching him in</p> <p>13 his back would allow you to gain compliance of his arms?</p> <p>14 <b>A. Again, he was thrashing about. He wasn't just</b></p> <p>15 <b>sitting plainly with me on top of him. He was still</b></p> <p>16 <b>thrashing around, trying to break free of -- trying to --</b></p> <p>17 <b>what I think, what I observed was trying to assault me</b></p> <p>18 Q. What did he do to try to assault you?</p> <p>19 <b>A. Trying to break his arms free.</b></p> <p>20 Q. Did he take a punch at you?</p> <p>21 MR. ANDRADA: Well, let him finish. I'm not sure</p> <p>22 if the witness --</p> <p>23 MR. HADDAD: Okay.</p> <p>24 MR. ANDRADA: -- finished his answer.</p> <p>25 MR. BURRIS: Relax.</p>
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<p>1 Q. What do you weigh now?</p> <p>2 <b>A. About 185.</b></p> <p>3 Q. Did you strike Mr. Harrison anywhere else on</p> <p>4 his body?</p> <p>5 <b>A. No, I did not.</b></p> <p>6 Q. Did you deliver any closed-fist strikes to his</p> <p>7 ribs?</p> <p>8 <b>A. I don't recall ever hitting him in his ribs.</b></p> <p>9 MR. BURRIS: You want to take a quick break?</p> <p>10 MR. HADDAD: Let's take a break.</p> <p>11 (Recess taken from 3:49 p.m. to 3:56 p.m.)</p> <p>12 MR. HADDAD: Q. So your department investigated</p> <p>13 your uses of force against Mr. Harrison and other</p> <p>14 deputies' uses of force after this incident, right?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. And given that Mr. Harrison ultimately died a</p> <p>17 couple of days after this altercation, you understood that</p> <p>18 that investigation by your department was a very serious</p> <p>19 investigation?</p> <p>20 <b>A. Yes, sir.</b></p> <p>21 Q. And when you were interviewed by Sergeant Dudek</p> <p>22 several hours after the incident, he asked you</p> <p>23 specifically about your uses of force against</p> <p>24 Mr. Harrison. Do you recall that?</p> <p>25 <b>A. I do not recall that.</b></p>	<p>1 MR. ANDRADA: Thank you.</p> <p>2 MR. HADDAD: Q. Sorry. Go ahead.</p> <p>3 <b>A. Fearing that he may try to strike me and try to</b></p> <p>4 <b>gain compliance over me or try to gain -- trying to gain,</b></p> <p>5 <b>I guess, compliance over me. I continually gave him</b></p> <p>6 <b>verbal orders, which he refused to comply with. You know,</b></p> <p>7 <b>I struck (sic) him on his back in an intent for him to</b></p> <p>8 <b>break his arms free.</b></p> <p>9 Q. He never tried to strike you, did he?</p> <p>10 <b>A. I never gave him the chance to try to strike</b></p> <p>11 <b>me.</b></p> <p>12 Q. The answer is he never tried to strike you,</p> <p>13 correct?</p> <p>14 <b>A. Correct.</b></p> <p>15 Q. He never tried to kick you, did he?</p> <p>16 <b>A. Let me back up. I can't say he never tried. I</b></p> <p>17 <b>never gave him the option to be able to do it. I can't</b></p> <p>18 <b>say he never tried. I assumed he would have tried.</b></p> <p>19 Q. You don't know if he was trying to get away or</p> <p>20 trying to fight with you because you don't know what he</p> <p>21 was thinking, right?</p> <p>22 <b>A. Well --</b></p> <p>23 MR. ANDRADA: Vague and ambiguous, compound.</p> <p>24 Go ahead.</p> <p>25 THE WITNESS: At that time, I don't know what he</p>

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<p>113</p> <p>1 was thinking.</p> <p>2 MR. HADDAD: Q. Okay. You didn't know if he was</p> <p>3 just trying to get you off of his back, literally, right?</p> <p>4 <b>A. No. I knew that he was trying to break free.</b></p> <p>5 Q. He never kicked you, did he?</p> <p>6 <b>A. Never gave him the opportunity to.</b></p> <p>7 Q. And what was your reason for the knee strikes</p> <p>8 to his side?</p> <p>9 <b>A. Trying to gain compliance over his left arm.</b></p> <p>10 Q. And how did you think that striking him with</p> <p>11 your knee would allow you to gain compliance over his arm?</p> <p>12 <b>A. Possibly get him to lean up his body where I</b></p> <p>13 <b>could have some sort of opportunity to grab his arm.</b></p> <p>14 Q. And other than the punches to the back, the</p> <p>15 knee strikes, and the open-palm strikes to the head, which</p> <p>16 you've just described in this deposition today, did you</p> <p>17 strike him anywhere else?</p> <p>18 <b>A. I don't recall ever striking him. I mean, it</b></p> <p>19 <b>happened -- in all actuality, it happened so fast. I</b></p> <p>20 <b>don't believe -- I recall striking him what I've already</b></p> <p>21 <b>explained, but I don't recall striking him anywhere else</b></p> <p>22 <b>or any other time.</b></p> <p>23 Q. But the ones you've described today are what</p> <p>24 you can remember as you sit here today, right?</p> <p>25 <b>A. Correct.</b></p>	<p>115</p> <p>1 <b>A. Say that one more time. I'm sorry.</b></p> <p>2 Q. When Sergeant Dudek interviewed you --</p> <p>3 <b>A. Mm-hmm.</b></p> <p>4 Q. -- were you aware that the only strikes you</p> <p>5 told Sergeant Dudek about was two punches to the</p> <p>6 mid-torso, which you say now did not happen, and two</p> <p>7 open-palm strikes to the head?</p> <p>8 MR. ANDRADA: That misstates the testimony.</p> <p>9 But go ahead and answer the question.</p> <p>10 THE WITNESS: I don't recall telling him that, and</p> <p>11 I'll go back and say I don't recall hitting him in the</p> <p>12 torso area.</p> <p>13 MR. HADDAD: Q. Do you recall Sergeant Ritter</p> <p>14 asking you about the force you used against Mr. Harrison</p> <p>15 about a week later?</p> <p>16 <b>A. I recall having an interview with him, yes.</b></p> <p>17 Q. And do you recall telling Sergeant Ritter that</p> <p>18 you delivered a few strikes to his torso area?</p> <p>19 <b>A. I don't recall saying that.</b></p> <p>20 Q. Do you recall telling Sergeant Ritter that you</p> <p>21 delivered strikes to his left ribcage and left side, in</p> <p>22 addition to a couple times to his back?</p> <p>23 <b>A. I don't recall to the mid-side. I recall what</b></p> <p>24 <b>I've already stated.</b></p> <p>25 Q. Now, when you gave those statements to</p>
<p>114</p> <p>1 Q. When you were interviewed by Sergeant Dudek a</p> <p>2 few hours after the accident, here's what I heard you say.</p> <p>3 You describe you were on the ground with him and you said,</p> <p>4 "At that point, he grabbed on to my hand with his -- I</p> <p>5 don't know if it was his -- I think it was his right hand.</p> <p>6 I told him to 'Stop resisting. Let it go. Stop</p> <p>7 resisting.'" Is that accurate?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Do you remember that happening?</p> <p>10 <b>A. I remember as the struggle ensued that he</b></p> <p>11 <b>eventually got his arms free and was trying to break free.</b></p> <p>12 <b>He was holding my hand.</b></p> <p>13 Q. Okay. And then you told Sergeant Dudek, "After</p> <p>14 telling him to stop resisting" -- you said he didn't -- "I</p> <p>15 gave two punches to the mid-torso." Is that accurate?</p> <p>16 <b>A. Two punches to -- it was -- my punches were to</b></p> <p>17 <b>his back. It wasn't to his stomach area.</b></p> <p>18 Q. So when you told Sergeant Dudek that you gave</p> <p>19 him two punches to the mid-torso, was that true or not</p> <p>20 true?</p> <p>21 <b>A. I don't recall ever hitting him there.</b></p> <p>22 Q. And were you aware that you never described</p> <p>23 anything other than those two punches to the mid-torso and</p> <p>24 two open-palm strikes to Sergeant Dudek when he</p> <p>25 interviewed you?</p>	<p>116</p> <p>1 Sergeant Dudek and Sergeant Ritter, were you being honest</p> <p>2 with them?</p> <p>3 <b>A. Yeah.</b></p> <p>4 Q. Were you trying to give them complete accounts</p> <p>5 of what happened?</p> <p>6 <b>A. As much as I could.</b></p> <p>7 Q. And at least when Sergeant Ritter was</p> <p>8 interviewing you, you knew that Harrison had already died,</p> <p>9 right?</p> <p>10 <b>A. Yes, at that point.</b></p> <p>11 Q. Now, going on with your recollection today</p> <p>12 about what happened with Harrison, did you deliver the</p> <p>13 back strikes first or the knee strikes first?</p> <p>14 <b>A. To be honest with you, I can't recall the</b></p> <p>15 <b>sequence. To be honest with you, it happened so fast I</b></p> <p>16 <b>don't have recollection of exactly which sequence it</b></p> <p>17 <b>happened in.</b></p> <p>18 Q. What's the next thing that you can recall after</p> <p>19 those strikes?</p> <p>20 <b>A. I can recall him still actively resisting and</b></p> <p>21 <b>my radio coming off and me getting on my radio as I'm on</b></p> <p>22 <b>top of him calling for cover.</b></p> <p>23 Q. And what else do you remember?</p> <p>24 <b>A. I remember that -- I remember accidentally</b></p> <p>25 <b>saying I needed cover in Housing Unit 34, and then I</b></p>

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<p style="text-align: right;">117</p> <p>1   <b>corrected myself and said Housing Unit 33.</b></p> <p>2       Q. And has that been a recurring problem with you</p> <p>3    in your law enforcement career, is that when you're in a</p> <p>4    tense situation, you'll forget where you are or make a</p> <p>5    mistake about a location on the radio?</p> <p>6       MR. ANDRADA: Objection. Vague and ambiguous.</p> <p>7       Go ahead.</p> <p>8       THE WITNESS: No.</p> <p>9       MR. HADDAD: Q. So you've never been counseled</p> <p>10   about that by any superior officer, that you need work on</p> <p>11   your ability to be accurate with your location when you're</p> <p>12   radioing your location during a tense situation?</p> <p>13       <b>A. Well, there's a difference in working in the</b></p> <p>14   <b>jail in a confined space when you're in a housing unit</b></p> <p>15   <b>when there's not -- compared to -- and you know the layout</b></p> <p>16   <b>compared to where I think you're going with is -- is on</b></p> <p>17   <b>patrol and not knowing the area because you're -- you're</b></p> <p>18   <b>not -- you haven't been exposed to that area that much,</b></p> <p>19   <b>so...</b></p> <p>20       Q. So during patrol, you had been counseled about</p> <p>21   giving wrong information about your location during tense</p> <p>22   situations, right?</p> <p>23       <b>A. Not wrong information. I don't recall there</b></p> <p>24   <b>ever being a time where they said -- I mean, there were</b></p> <p>25   <b>times I didn't know where the location was where I was</b></p>	<p style="text-align: right;">119</p> <p>1   <b>his arms locked. He wasn't able -- I used my body weight;</b></p> <p>2   <b>I wasn't giving his arms free motion to be able to strike</b></p> <p>3   <b>me or get free. I was just using my body weight to hold</b></p> <p>4   <b>him down until...</b></p> <p>5       Q. Did you ever put him in a carotid hold?</p> <p>6       <b>A. No.</b></p> <p>7       Q. Did you ever try to?</p> <p>8       <b>A. No.</b></p> <p>9       Q. Do you recall at one point having your right</p> <p>10   arm underneath his neck and your left forearm across his</p> <p>11   head holding his head in that position?</p> <p>12       <b>A. No, I do not.</b></p> <p>13       Q. If you had told that to Sergeant Ritter, that</p> <p>14   that was a position you were in for some period, would</p> <p>15   that be correct or incorrect?</p> <p>16       <b>A. If that's what I told him at the time. I'm</b></p> <p>17   <b>going off of the recollection I can recall now.</b></p> <p>18       Q. Do you recall Sergeant Ritter asking you a lot</p> <p>19   of questions about how Martin Harrison could have</p> <p>20   sustained severe bruising all around his neck?</p> <p>21       <b>A. Vaguely.</b></p> <p>22       Q. And do you recall him asking you, "Can you</p> <p>23   think of any way that you or any of the other deputies</p> <p>24   that you witnessed could have caused severe bruising to</p> <p>25   Mr. Harrison's neck?"</p>
<p style="text-align: right;">118</p> <p>1   <b>going because I wasn't familiar with the area. I was</b></p> <p>2   <b>learning the area as I was going.</b></p> <p>3       Q. So after you radioed for assistance, what</p> <p>4   happened next?</p> <p>5       <b>A. I corrected myself and said Housing Unit 33 and</b></p> <p>6   <b>a struggle ensued. I'm still actively telling</b></p> <p>7   <b>Mr. Harrison "Stop resisting." At that time, I started to</b></p> <p>8   <b>get fatigued.</b></p> <p>9       Q. Mm-hmm.</p> <p>10       <b>A. About this time, it seemed like a while</b></p> <p>11   <b>since -- it seemed like a long time that I was struggling</b></p> <p>12   <b>with him. At that point, I recall hearing my technician</b></p> <p>13   <b>call out that there was a 243 in Housing Unit 33 and that</b></p> <p>14   <b>we need cover.</b></p> <p>15       Q. What's the next thing you remember?</p> <p>16       <b>A. Getting tired and just putting him in a --</b></p> <p>17   <b>holding his arms securely and just trying to -- to hold</b></p> <p>18   <b>down his body with my body weight until cover came,</b></p> <p>19   <b>because at that point I got tired.</b></p> <p>20       Q. Did you put him in some sort of a headlock?</p> <p>21       <b>A. No.</b></p> <p>22       Q. Did you have one or both of your arms around</p> <p>23   his neck?</p> <p>24       <b>A. I had -- I don't recall exactly where my arm</b></p> <p>25   <b>was. All I know is I had him in a position where I had</b></p>	<p style="text-align: right;">120</p> <p>1       Do you recall him asking you that?</p> <p>2       <b>A. No, I do not.</b></p> <p>3       Q. Do you recall telling Sergeant Ritter that you</p> <p>4   could have caused bruising to Mr. Harrison's neck when you</p> <p>5   were using your body weight to hold him?</p> <p>6       <b>A. I don't recall specifically telling him that,</b></p> <p>7   <b>but I assume since you're reading that, that it may be in</b></p> <p>8   <b>there. I -- I don't -- don't recall it at this point.</b></p> <p>9       Q. Let me ask you based on what you know now.</p> <p>10       <b>A. Okay.</b></p> <p>11       Q. Is it possible that you could have caused</p> <p>12   bruising to Mr. Harrison's neck by anything that you did?</p> <p>13       MR. ANDRADA: Calls for speculation.</p> <p>14       But go ahead.</p> <p>15       THE WITNESS: I don't -- I don't recall ever having</p> <p>16   my arms around his neck, so I can't answer "yes" or "no."</p> <p>17   I -- I don't know.</p> <p>18       MR. HADDAD: Q. Did you ever put body weight in</p> <p>19   the area of his neck?</p> <p>20       <b>A. No, I don't recall doing that.</b></p> <p>21       Q. Did you ever strike him anywhere around his</p> <p>22   neck?</p> <p>23       <b>A. No.</b></p> <p>24       Q. Does your department prevent you to forcefully</p> <p>25   strike a person in the neck?</p>

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<p>121</p> <p>1     <b>A. No.</b></p> <p>2     Q. Only for deadly force, right?</p> <p>3     <b>A. Correct.</b></p> <p>4     Q. At some point backup arrived, right?</p> <p>5     <b>A. Yes, sir.</b></p> <p>6     Q. What was your position, your body position, 7     with Mr. Harrison when backup came?</p> <p>8         <b>A. Mr. Harrison's head was facing towards the 9         isolation cell. His feet were facing towards the opposite 10         wall, so he was kind of sideways from the -- and I was -- 11         I don't know my exact positioning. I was still on top of 12         him -- sort of on top of him. I had him in a hold, and I 13         can't explain what the hold -- I had his arms on a -- in a 14         hold, and I was using my body weight to kind of hold him 15         down to prevent him from trying to break free when cover 16         came.</b></p> <p>17         Q. So you were holding his arms somehow, right?</p> <p>18         <b>A. Somehow I had him in a hold, and I -- to this 19         day, I can't -- I don't recall exactly -- and I can't 20         explain how that hold was put in. I just -- I tried to 21         use whatever mode I could to try to keep his arms from 22         being able to get free.</b></p> <p>23         Q. Okay. Was he still pretty much on his belly?</p> <p>24         MR. ANDRADA: Vague -- vague and ambiguous.</p> <p>25         But go ahead.</p>	<p>123</p> <p>1         Q. What's the next thing that you can remember 2     after they had arrived?</p> <p>3         <b>A. More deputies arriving.</b></p> <p>4         Q. What were they doing?</p> <p>5         <b>A. Trying to gain compliance, trying to get 6         compliance of Harrison, because he's still actively 7         resisting, thrashing about at this point.</b></p> <p>8         Q. What were you doing while the other deputies 9     were there?</p> <p>10         <b>A. Trying -- at this point, I'm exhausted. I'm 11         trying to just hold him in place so they can get control 12         of his hands and legs.</b></p> <p>13         Q. So you're still holding him while the other 14     deputies are there also trying to gain compliance, right?</p> <p>15         <b>A. Correct.</b></p> <p>16         Q. And by trying to gain compliance, you mean they 17     were trying to get his arms so they could handcuff him, 18     right?</p> <p>19         <b>A. Right.</b></p> <p>20         Q. Were you still holding his arms?</p> <p>21         <b>A. I don't know if I was still holding them at 22         that point. I can't recall exactly what happened at that 23         point. I recall just multiple people came in, trying -- 24         deputies, and I don't know exactly -- again, I'm going off 25         the police report --</b></p>
<p>122</p> <p>1         THE WITNESS: You know what? Due to the point -- 2     because I'm so close proximity, I can't recall if his body 3     was strictly on -- I remember -- I wasn't -- I can't say 4     100 percent yes, it was all on the floor.</p> <p>5         MR. HADDAD: Q. So what happened when the other 6     officers arrived?</p> <p>7         <b>A. All I saw were boots. That's -- that's all I 8         could say I saw. I remember, you know, one person -- 9         because I'm facing -- his legs are over here to my right. 10         I remember seeing boots near that right, trying to control 11         his legs, and the -- another person came around him to try 12         and secure his arms.</b></p> <p>13         Q. Did you ever see Martin Harrison strike any 14     officer?</p> <p>15         <b>A. No.</b></p> <p>16         Q. Do you know the names of the deputies who 17     arrived first?</p> <p>18         <b>A. Based off just what the police report said.</b></p> <p>19         Q. Okay. So considering that you know this from 20     the police reports, who do you believe arrived first?</p> <p>21         <b>A. I believe it to be Deputy Valverde and I think 22         possibly Deputy Swetnam.</b></p> <p>23         Q. And can you describe anything that either of 24     them did?</p> <p>25         <b>A. I cannot, to be honest with you. Sorry.</b></p>	<p>124</p> <p>1         Q. Mm-hmm.</p> <p>2         <b>A. -- and they tried to secure -- tried to get 3         compliance from -- I was exhausted at that point. I was 4         just trying to lay there and make sure that he wasn't 5         trying to strike anybody.</b></p> <p>6         Q. Do you think that your trying to hold him and 7     prevent him from striking anybody interfered with other 8     officers' attempts to gain control of his arms and 9     handcuff him?</p> <p>10         <b>A. No.</b></p> <p>11         Q. At some point other officers had to drag you 12     off of him. Is that right?</p> <p>13         <b>A. Yes, sir.</b></p> <p>14         Q. What was going on at that point?</p> <p>15         <b>A. I got taken off of -- I don't know who it was 16         that took me off, but I got lifted off -- kind of picked 17         up off of the floor and Mr. Harrison. And from what I was 18         told, the reason I was picked up is because I had my 19         cord -- my radio cord wrapped around my neck at that 20         point.</b></p> <p>21         Q. Who told you that?</p> <p>22         <b>A. I don't know. I can't recall who it was.</b></p> <p>23         Q. Who picked you up?</p> <p>24         <b>A. I can't recall. It was from behind me.</b></p> <p>25         Q. Were you delivering any blows to him around the</p>

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<p>1 time that you were picked up off of him?</p> <p>2 <b>A. No.</b></p> <p>3 Q. And what's the next thing you can remember?</p> <p>4 <b>A. The next thing I can remember was them asking</b>  <b>5 me if I'm okay, and I told him my left shoulder was sore,</b>  <b>6 kind of hurt. And then shortly after that, I heard</b>  <b>7 something to the effect of, "He's got the Taser."</b></p> <p>8 Q. That was your Taser, right?</p> <p>9 <b>A. I assumed it was.</b></p> <p>10 Q. So after you were pulled off of him and there      11 were other deputies on him, your Taser was still laying on      12 the floor somewhere?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. As soon as you were pulled off of him, why      15 didn't you go secure your own Taser and pick it up off the      16 floor?</p> <p>17 <b>A. Because, at that point, I had -- I was being</b>  <b>18 controlled by other deputies, asking whether or not I was</b>  <b>19 okay.</b></p> <p>20 Q. Did you consider it to be dangerous that your      21 Taser was laying on the floor?</p> <p>22 <b>A. Absolutely.</b></p> <p>23 Q. Why didn't you go get it right away?</p> <p>24 MR. ANDRADA: Well --</p> <p>25 THE WITNESS: I don't have an answer.</p>	<p>1 hand?</p> <p>2 <b>A. From what I can recollect is that it was -- his</b>  <b>3 hand was on top of the Taser. Whether or not he had a</b>  <b>4 grasp of it, I don't know. I can't say "yes" or "no" to</b>  <b>5 that. What I can recall is that somebody having a hold of</b>  <b>6 his arm and me taking my foot and actually moving it to</b>  <b>7 the side to get it away from his grasp.</b></p> <p>8 Q. Did you -- did you deliver any blows to his      9 hand or his arm at that time?</p> <p>10 <b>A. No, I did not.</b></p> <p>11 Q. Did you see any officer punch him on the hand      12 to -- while he was holding the Taser?</p> <p>13 <b>A. I don't recall ever seeing anybody hit him on</b>  <b>14 the hand.</b></p> <p>15 Q. Did you see any officer stomp on his hand while      16 he was holding the Taser?</p> <p>17 <b>A. No.</b></p> <p>18 Q. Did he ever raise the Taser off the floor?</p> <p>19 <b>A. Not that I can see.</b></p> <p>20 Q. In what position was his arm while he had his      21 hand on the Taser? Was it straight out, or was it bent at      22 the elbow?</p> <p>23 <b>A. What I can recall, it was kind of -- as such</b>  <b>24 where it was kind of cruxed, bent.</b></p> <p>25 Q. That seemed like a good opportunity for</p>

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1 MR. ANDRADA: Hang on.

2 It's asked and answered. It's argumentative as  
 3 phrased.

4 But go ahead again.

5 THE WITNESS: Prior to them -- prior to somebody  
 6 saying, "He's got the Taser," I wasn't -- I had no  
 7 recollection of whether or not the Taser -- I didn't even  
 8 know where the Taser was.

9 MR. HADDAD: Q. Okay. So it wasn't in the front  
 10 of your mind at that time, right?

11 **A. No.**

12 Q. So when you heard an officer yell something  
 13 like, "He's got a Taser," then what happened?

14 **A. At that point, I remember just trying -- just**  
**15 hold his arms so that -- that -- when I went around -- I**  
**16 walked around to the -- well, I can say I actually**  
**17 walked -- I don't want to say ran, but I walked swiftly**  
**18 around everybody to where his arms were, and I saw that**  
**19 his hand was on the Taser -- the Taser was on the floor.**

20 **His hands was on top of the Taser. And, at that point, I**  
**21 used my foot to -- somebody had a hold of his hand. I**  
**22 used my foot to grab hold of the Taser and slide it out**  
**23 from -- from his vicinity of the area.**

24 Q. So his open palm was laying on top of the Taser  
 25 so that you could kind of kick it out from underneath his

1 officers to grab his wrist and turn his arm around and  
 2 handcuff him. Would you agree?

3 MR. ANDRADA: Well -- so what -- I'm sorry. Vague  
 4 and ambiguous, overly broad.

5 Go ahead.

6 THE WITNESS: I mean, throughout the whole entire  
 7 struggle, he is tense. His body is tense and he is -- I  
 8 can't -- I was -- I can't say "yea" or "nay" on that. I  
 9 don't know, because I wasn't -- I didn't feel his arm at  
 10 that point. I don't know if it was still tense. I know  
 11 throughout the struggle that we had, his body and his leg,  
 12 even though he was thrashing, he was still putting up a  
 13 lot of -- he was tense and still struggling with me.

14 MR. HADDAD: Q. Now, in the academy and on other  
 15 occasions afterward, you've been taught about how to  
 16 handcuff a person, right?

17 **A. Yes.**

18 Q. It's pretty typical training that all deputies  
 19 receive, right?

20 **A. Yes.**

21 Q. You practice it in defensive tactics classes,  
 22 right?

23 **A. Yes.**

24 Q. In fact, have you been a trainer to train other  
 25 deputies in how to handcuff a person when you taught the

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<p>1 restraints class?</p> <p>2       <b>A. Yes.</b></p> <p>3       Q. And part of that training includes control</p> <p>4 holds to manipulate a person's joints so that you can get</p> <p>5 them into a position to be handcuffed, right?</p> <p>6       <b>A. Correct.</b></p> <p>7       Q. So these are the training that you're provided</p> <p>8 to deal with the situation where a person tenses up and</p> <p>9 won't allow themselves to be handcuffed, right?</p> <p>10      <b>A. Correct.</b></p> <p>11      Q. Can you explain to me why all of the officers</p> <p>12 that were involved in this situation with Mr. Harrison at</p> <p>13 that point were not able to simply get the job done and</p> <p>14 handcuff him without further uses of force against him?</p> <p>15      MR. ANDRADA: Argumentative as phrased.</p> <p>16      But go ahead.</p> <p>17      THE WITNESS: I can't speak to other officers'</p> <p>18 actions or why they did or did not do a certain compliance</p> <p>19 hold or anything.</p> <p>20      MR. HADDAD: Q. Did you ever try to get back in</p> <p>21 there and grab his wrists when you saw it was something</p> <p>22 you could hold on to and use a control hold to handcuff</p> <p>23 him?</p> <p>24      <b>A. No. I grabbed a hold of my Taser once I got it</b></p> <p>25 <b>away from him. At that point when he was still thrashing,</b></p>	<p>1 drive-stun?</p> <p>2       <b>A. It had no effect on him. So I don't know if</b></p> <p>3 <b>the probes were not connected at that point. I mean, I</b></p> <p>4 <b>remember him kind of tensing for a brief moment, but it</b></p> <p>5 <b>didn't seem to have any effect on him.</b></p> <p>6       Q. When you were interviewed by Sergeant Ritter, I</p> <p>7 heard you tell him that when you drive-stunned him, it was</p> <p>8 your belief that the Taser was still working and it</p> <p>9 affected him.</p> <p>10      Does that sound accurate?</p> <p>11      <b>A. His body became tense. His legs kind of</b></p> <p>12 <b>straightened out, so I would assume that it worked for</b></p> <p>13 <b>him, but it had no effect on him in the sense that he</b></p> <p>14 <b>continued to thrash while that was being done.</b></p> <p>15      Q. Okay. So just to be clear, then, that it</p> <p>16 appeared to you that the Taser cycle had sent electricity</p> <p>17 into him, but you're describing that he continued to</p> <p>18 resist. Is that right?</p> <p>19      <b>A. Yes.</b></p> <p>20      Q. How exactly was he resisting at that time?</p> <p>21      <b>A. He was still thrashing about.</b></p> <p>22      Q. What do you mean by "thrashing"?</p> <p>23      <b>A. His arms were still -- still trying to get his</b></p> <p>24 <b>arms free and still -- I mean, his legs tensed out, but he</b></p> <p>25 <b>was still trying to move his legs.</b></p>
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<p>1 <b>I instructed him to stop resisting or I'm going to</b></p> <p>2 <b>drive-stun him in which if he continued to disregard</b></p> <p>3 <b>corporal orders, and that's when I delivered my second</b></p> <p>4 <b>Taser application.</b></p> <p>5       Q. Where did you drive-stun him?</p> <p>6       <b>A. On the back.</b></p> <p>7       Q. Where on the back?</p> <p>8       <b>A. I don't recall. I believe it to be -- I recall</b></p> <p>9 <b>it kind of on the upper portion of the back. I don't</b></p> <p>10 <b>recall it ever being towards the lower end of his back.</b></p> <p>11      Q. He wasn't wearing a shirt, right?</p> <p>12      <b>A. At this point, I don't recall if he was or not.</b></p> <p>13      Q. Previously, you had described him as just</p> <p>14 wearing pants and sandals.</p> <p>15      <b>A. He had a tan shirt. He didn't have his blue --</b></p> <p>16 <b>before all this stuff happened, all he had was a -- he had</b></p> <p>17 <b>his blue pants on, sandals, and he had a tan shirt. He</b></p> <p>18 <b>didn't have his blue-covered shirt on; he had his tan</b></p> <p>19 <b>shirt on.</b></p> <p>20      Q. Were you able to apply both prongs of the Taser</p> <p>21 to his back for the entire five-second cycle?</p> <p>22      <b>A. At that point, the probes had already been</b></p> <p>23 <b>delivered through the first Taser strike, and so I put the</b></p> <p>24 <b>Taser up to his skin and actually delivered a drive-stun.</b></p> <p>25      Q. And you were able to deliver a five-second</p>	<p>1       Q. He was trying to move?</p> <p>2       <b>A. Yes.</b></p> <p>3       Q. While multiple officers were on him while</p> <p>4 twisting him or delivering forceful blows to his body,</p> <p>5 correct?</p> <p>6       <b>A. I can't say that they were delivering forceful</b></p> <p>7 <b>blows. I don't know quite what they were doing, to be</b></p> <p>8 <b>honest with you.</b></p> <p>9       Q. Did you see any officer deliver any blow to</p> <p>10 him?</p> <p>11      <b>A. I don't recall seeing -- I don't recall seeing</b></p> <p>12 <b>anybody specifically delivering -- I know that there were</b></p> <p>13 <b>some strikes. I don't know who. But at that point after</b></p> <p>14 <b>I drive-stunned him, I don't recall seeing anybody strike</b></p> <p>15 <b>him.</b></p> <p>16      Q. At any time did you see any other officer</p> <p>17 strike him?</p> <p>18      <b>A. I saw other officers throughout this struggle,</b></p> <p>19 <b>total struggle, strike him, yes.</b></p> <p>20      Q. You saw a number of officers deliver a number</p> <p>21 of blows to him, correct?</p> <p>22      <b>A. I won't say a number of officers. I just</b></p> <p>23 <b>saw -- I saw Mr. Harrison get struck.</b></p> <p>24      Q. How many officers do you think you saw?</p> <p>25      <b>A. Two maybe. I don't quite know. I don't have a</b></p>

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<p style="text-align: right;">133</p> <p>1 <b>specific number for you.</b></p> <p>2 Q. How many blows did you see other officers</p> <p>3 inflict on him?</p> <p>4 <b>A. I don't know.</b></p> <p>5 Q. Are you able to estimate?</p> <p>6 <b>A. My recollection was two, three maybe.</b></p> <p>7 Q. Did you see any officer ever strike</p> <p>8 Mr. Harrison anywhere near his neck?</p> <p>9 <b>A. No, I did not.</b></p> <p>10 Q. Did you see any officer put Harrison in some</p> <p>11 sort of headlock or neck lock?</p> <p>12 <b>A. No, I didn't.</b></p> <p>13 Q. Did you see any officer use or attempt to use a</p> <p>14 carotid hold on him?</p> <p>15 <b>A. No, I did not.</b></p> <p>16 Q. If, in fact, the medical examiner on the</p> <p>17 autopsy found extensive bruising all around Mr. Harrison's</p> <p>18 neck, including in the front, would you have any</p> <p>19 explanation for how that happened?</p> <p>20 <b>A. No, I do not.</b></p> <p>21 Q. What happened after you drive-stunned him?</p> <p>22 <b>A. At that time, the first sergeants started to</b></p> <p>23 <b>arrive.</b></p> <p>24 Q. Then what?</p> <p>25 <b>A. At that point I went and talked to the</b></p>	<p style="text-align: right;">135</p> <p>1 Q. Did you see Harrison get handcuffed?</p> <p>2 <b>A. I didn't specifically see him get handcuffed.</b></p> <p>3 <b>I remember somebody -- and I don't know who it was --</b></p> <p>4 <b>having handcuffs in their hand, but I didn't actually</b></p> <p>5 <b>watch him physically get handcuffed. Not that I can</b></p> <p>6 <b>recall.</b></p> <p>7 Q. Let me just go back.</p> <p>8 The blows that you did see other officers deliver,</p> <p>9 how did they deliver them? Were they with fists or other</p> <p>10 things?</p> <p>11 <b>A. I know that there was a couple of knee strikes.</b></p> <p>12 <b>I believe maybe a couple of fist strikes to the back and</b></p> <p>13 <b>stuff is all I can recall.</b></p> <p>14 Q. Did you see any officer use a baton or any</p> <p>15 instrument to inflict the blow?</p> <p>16 <b>A. No, I did not.</b></p> <p>17 Q. Did you see any officer with a baton out during</p> <p>18 this altercation?</p> <p>19 <b>A. No, not that I can recall at all.</b></p> <p>20 Q. At that time, did you carry a baton on your</p> <p>21 person while you worked in the jail?</p> <p>22 <b>A. No, I did not.</b></p> <p>23 Q. Was it permitted for deputies to carry batons</p> <p>24 or blunt-force instruments?</p> <p>25 <b>A. No, it was not.</b></p>
<p style="text-align: right;">134</p> <p>1 <b>sergeant.</b></p> <p>2 MR. BURRIS: What was that?</p> <p>3 THE WITNESS: Sorry. I went to go talk to the</p> <p>4 sergeant.</p> <p>5 MR. HADDAD: Q. Who was that?</p> <p>6 <b>A. I believe it was Antriago.</b></p> <p>7 Q. What did you and Sergeant Antriago say to each</p> <p>8 other?</p> <p>9 <b>A. Asked him what happened, and I told him what</b></p> <p>10 <b>happened.</b></p> <p>11 Q. While this is still going on?</p> <p>12 <b>A. At this time, I'm exhausted to the point where</b></p> <p>13 <b>I have no more -- I'm -- I'm spent.</b></p> <p>14 Q. And did you hear other officers say that the</p> <p>15 scene was Code 4 by then?</p> <p>16 <b>A. I don't recall ever hearing Code 4. I know I</b></p> <p>17 <b>read it in the report, but I don't recall ever hearing</b></p> <p>18 <b>that term being used.</b></p> <p>19 Q. What does Code 4 mean?</p> <p>20 <b>A. No other assistance needed.</b></p> <p>21 Q. Means -- basically, it's a term that's used</p> <p>22 when the situation is under control, right?</p> <p>23 <b>A. Or the scene is safe, yes.</b></p> <p>24 Q. Or the scene is safe?</p> <p>25 <b>A. Under control or safe, yes.</b></p>	<p style="text-align: right;">136</p> <p>1 Q. After he was handcuffed, what happened?</p> <p>2 <b>A. He was handcuffed and then leg restraints were</b></p> <p>3 <b>placed on him.</b></p> <p>4 Q. Was that in the same location, or was he moved</p> <p>5 first?</p> <p>6 <b>A. I believe that was in the same location,</b></p> <p>7 <b>because I remember they called for leg irons. I think it</b></p> <p>8 <b>was in the same location.</b></p> <p>9 Q. Did you observe the leg irons being placed on</p> <p>10 him?</p> <p>11 <b>A. No, I did not. Not that I recall.</b></p> <p>12 Q. So tell me what you saw or heard and not</p> <p>13 something that you just only learned from the police</p> <p>14 report, please. Okay?</p> <p>15 What else are you aware of observing after he was</p> <p>16 handcuffed?</p> <p>17 <b>A. I remember seeing them pick him up onto his</b></p> <p>18 <b>feet and escort him to the other isolation cell.</b></p> <p>19 Q. And they got him to the other isolation cell?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. Did anything happen along the way that stood</p> <p>22 out?</p> <p>23 <b>A. They placed him on his stomach.</b></p> <p>24 Q. Where?</p> <p>25 <b>A. In the isolation cell.</b></p>

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<p style="text-align: right;">137</p> <p>1 Q. And so he's handcuffed at this time, right?  2 <b>A. Yes, he is.</b>  3 Q. And then what happened?  4 <b>A. I recall somebody saying, "Get a spit mask.</b>  5 <b>He's trying to spit," and a spit mask -- I can't remember</b>  6 <b>if one got put on Mr. Harrison. I remember a request to</b>  7 <b>get one was made.</b>  8 Q. Did Harrison actually spit on any officer or  9 did he just threaten to spit?  10 MR. ANDRADA: If you know.  11 THE WITNESS: I don't recall him ever spitting. I  12 know that he had made verbal threats to spit and to bite.  13 MR. HADDAD: Q. Well, what, specifically, can you  14 remember him saying about either spitting or biting?  15 <b>A. Actually, I remember deputy saying that he was</b>  16 <b>trying to spit. I can't recall everything. I don't</b>  17 <b>recall him actually saying that he's trying to spit. He</b>  18 <b>was trying to spit based off what the deputies were</b>  19 <b>saying.</b>  20 Q. Do you recall that he would go from cursing at  21 the deputies to then saying things like "I love you guys"?</p> <p>22 <b>A. No.</b>  23 Q. You didn't hear anything like that?  24 <b>A. No. I was not -- when he was in the isolation</b>  25 <b>cell, I was not right there at the isolation cell.</b></p>	<p style="text-align: right;">139</p> <p>1 Vague and ambiguous --  2 MR. HADDAD: I'll rephrase the question.  3 Q. Rather than asking for leg irons and a spit  4 mask when he was on his belly, still moving around, what  5 would have been wrong with simply walking out, leaving him  6 alone in the isolation cell, still handcuffed, and just  7 closing the door --  8 MR. ANDRADA: Well --  9 MR. HADDAD: Q. -- until he calmed down?  10 MR. ANDRADA: All right. Vague, ambiguous, overly  11 broad, calls for an expert opinion. It's argumentative as  12 phrased.  13 But go ahead.  14 THE WITNESS: I don't have an answer. I don't  15 know.  16 MR. HADDAD: Q. Did you see anybody else tase him?  17 <b>A. I remember seeing somebody else, I think,</b>  18 <b>drive-stun him. At the time, I didn't know who it was</b>  19 <b>until I read the police report. But I didn't recall. I</b>  20 <b>remember someone -- I remember hearing a Taser go off and</b>  21 <b>it wasn't mine, so...</b>  22 Q. Did that other person tase him before or after  23 you drive-stunned him?  24 <b>A. That I don't recall.</b>  25 Q. Did you ever let other deputies know that you</p>
<p style="text-align: right;">138</p> <p>1 Q. Did you see them put the spit mask on him?  2 <b>A. I don't know if it was applied or not. I know</b>  3 <b>the request was made to get one, but I can't recall</b>  4 <b>whether one was placed on him or not.</b>  5 Q. What did you see Harrison doing while he was  6 face down on the floor in the isolation cell while they  7 were waiting for the leg restraints and the spit mask?  8 <b>A. I was actually talking -- I was still with my</b>  9 <b>sergeant at that point. I wasn't really over in that</b>  10 <b>vicinity of the area. There was a lot of deputies over</b>  11 <b>there, so it was hard for me to see what was going on.</b>  12 Q. Once you did see him face down on the floor, as  13 you've described, what was he doing?  14 <b>A. Still struggling, still trying to -- he was</b>  15 <b>grimacing. I can't recall exactly what he was saying, but</b>  16 <b>he wasn't -- wouldn't call it being passive.</b>  17 Q. If he was handcuffed on his belly on the floor,  18 how was he struggling?  19 <b>A. He's still trying to -- thrashing his legs</b>  20 <b>around.</b>  21 Q. Why couldn't the deputies just leave him like  22 that in the new observation cell and walk out and close  23 the door?  24 <b>A. Well --</b>  25 MR. ANDRADA: Wait a minute.</p>	<p style="text-align: right;">140</p> <p>1 had already tased him in this incident so that they'd be  2 aware that he'd been tased before?  3 <b>A. There was evidence of him being tased. The</b>  4 <b>probe lines were already laying on the ground and...</b>  5 Q. You didn't tell anybody about how many times  6 you tased him, had you?  7 <b>A. I don't recall ever saying anything.</b>  8 Q. Is there anything else you can recall happening  9 with him while he was on the floor in the second isolation  10 cell?  11 <b>A. No. I remember the deputies -- we had called</b>  12 <b>for a nurse at that point, and deputies were right there</b>  13 <b>with him until the nurse arrived.</b>  14 Q. Did you see any deputy strike him either with a  15 fist or knee or any other part of their body while he was  16 on the floor in the second isolation cell?  17 <b>A. No, I did not, sir.</b>  18 Q. Given that he was already handcuffed at that  19 point, based on your training and experience, would it  20 have been appropriate for deputies to continue striking  21 him?  22 MR. ANDRADA: Calls for expert opinion, no  23 foundation as to this witness, vague and ambiguous.  24 But go ahead if you can answer it.  25 THE WITNESS: If a person is secure in handcuffs</p>

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<p>1 and they're not -- there's no more -- a threat, then I 2 would not strike somebody.</p> <p>3 MR. HADDAD: Q. And you're -- you've been a 4 trainer in terms of force for your department, right?</p> <p>5 <b>A. Not a trainer in force, a trainer in -- I used 6 to train people in -- I used to work in an ancillary 7 housing unit, so how to properly place handcuffs on an 8 individual so that when you -- you have to, one, take them 9 off or readjust, you're not putting yourself in a position 10 of disadvantage.</b></p> <p>11 Q. What did you train other deputies about whether 12 or not it was proper to strike a person after they have 13 already been handcuffed and are face down on the ground?</p> <p>14 MR. ANDRADA: Again --</p> <p>15 THE WITNESS: That --</p> <p>16 MR. ANDRADA: Hang on.</p> <p>17 Vague and ambiguous, overly broad. Go ahead.</p> <p>18 THE WITNESS: I didn't instruct people on that.</p> <p>19 When -- are you talking about when I teach something in, 20 like, a core class or when I had the training?</p> <p>21 MR. HADDAD: Q. Either way. Anytime as a trainer.</p> <p>22 <b>A. As a trainer, at no time did I ever tell anybody or would I tell anybody that if a person is secure with handcuffs that they have the authorization and the</b></p>	<p>1 <b>A. I believe it was his thigh.</b> 2 Q. So one of those Taser probes with the barb in 3 it had -- it was still attached to his thigh after all 4 that. Is that right?</p> <p>5 <b>A. I think it was either -- I know there was one 6 attached. I can't remember if it was his thigh or 7 possibly one in his shirt. I can't remember. I think it 8 was his thigh. I don't know 100 percent on that, but as I 9 recall, I think it was his thigh.</b></p> <p>10 Q. At some point, did you notice that he had 11 stopped moving?</p> <p>12 <b>A. I noticed that he became calm. He wasn't 13 thrashing around anymore.</b></p> <p>14 Q. What point was that?</p> <p>15 <b>A. While the nurse was there.</b></p> <p>16 Q. Which nurse?</p> <p>17 <b>A. I don't recall her name.</b></p> <p>18 Q. At some point there were two nurses, right?</p> <p>19 <b>A. Yes, sir.</b></p> <p>20 Q. Was it before the second nurse arrived?</p> <p>21 <b>A. Yes, sir.</b></p> <p>22 Q. Okay. And was there any discussion that you 23 overheard about the fact that he was calm now?</p> <p>24 <b>A. No. There was just my observation. Went from 25 a point of thrashing to a point of being calm.</b></p>
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<p>1 <b>need to strike somebody.</b> 2 Q. Once the person is handcuffed, deputies should 3 no longer strike the person, correct?</p> <p>4 MR. ANDRADA: Objection. Vague and ambiguous, 5 overly broad. 6 Go ahead.</p> <p>7 THE WITNESS: I'm not saying that. It depends on 8 the situation, and it depends on the position of where 9 you're at compared to where that -- there's a lot of 10 things that go to it. Typically, no, but I'm not saying 11 that's 100 percent all the time.</p> <p>12 MR. HADDAD: Q. Is there anything else that 13 happened at that location that you were present for other 14 than what you've described?</p> <p>15 <b>A. When the nurse came.</b> 16 Q. Did you see what happened then?</p> <p>17 <b>A. The nurse asked for him to be brought out into 18 the hallway, because she didn't feel comfortable in a 19 closed, confined space; taking out and checking to see if 20 the probes were still attached, and in which they moved 21 him to the hallway.</b></p> <p>22 Q. Did he have any Taser probes still attached to 23 his body?</p> <p>24 <b>A. He had one.</b> 25 Q. Where was it attached?</p>	<p>1 Q. What's the next thing that you can remember?</p> <p>2 <b>A. The second nurse coming in.</b></p> <p>3 Q. And then what?</p> <p>4 <b>A. I recall her going Mr. Harrison and checking 5 for vitals; that finding out that he had a staggered 6 pulse.</b></p> <p>7 Q. A what?</p> <p>8 <b>A. Staggered. At first she said -- her initial 9 reaction was something in terms of is he even breathing. 10 And, at that point, they -- I think they found a real 11 faint, staggered pulse. I think.</b></p> <p>12 Q. What went through your head at that moment when 13 you learned he may not even be breathing and he has a very 14 faint, staggered pulse?</p> <p>15 <b>A. I can't even recall what I was thinking, to be 16 honest with you.</b></p> <p>17 Q. What's the next thing you can remember?</p> <p>18 <b>A. I can remember them requesting Code 3 medical 19 and some -- have somebody bring a gurney.</b></p> <p>20 Q. Then what happened?</p> <p>21 <b>A. Mr. Harrison was taken from housing unit to the 22 infirmary.</b></p> <p>23 Q. Did you go with him?</p> <p>24 <b>A. No, I didn't.</b></p> <p>25 Q. Then what did you do?</p>

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<p>1       A. From there I -- the other sergeants came in.  2   My direct supervisor came in, and we kind of briefly went  3   over kind of what happened. And from there it was making  4   sure that I was okay and making sure that we started  5   documenting and taking photographs and start sealing off  6   the scene.</p> <p>7       Q. And then what?</p> <p>8       A. At that point, I went up in housing control,  9   and I can't even recall what I was thinking at that point.  10   Nothing like this had ever happened to me before.</p> <p>11      Q. Did you discuss with anybody else that day what  12   had happened?</p> <p>13      A. Just deputies that were arriving.</p> <p>14      Q. At some point you went to the hospital for  15   yourself?</p> <p>16      A. Yes.</p> <p>17      Q. How did you do that?</p> <p>18      A. I was transported -- driven by  19   Sergeant Antriago.</p> <p>20      Q. Why was that?</p> <p>21      A. My left shoulder was really sore. I didn't  22   know if something had happened to it. It was just really  23   sore.</p> <p>24      Q. So did you get that checked out at the  25   hospital?</p>	<p>1       A. I was instructed -- because I was the victim of  2   an assault and because it was classified as a critical  3   incident, that there would be different primary officer.  4       Q. Who instructed you not to write any report?</p> <p>5       A. Originally, Agent Bricker. When he first came  6   in, he told me that I was going to be primary and I was  7   going to write the report, and if you need anything, to  8   let him know. And it was later, from my understanding --  9   I wasn't there when this happened, but it was later told  10   by, I think, Deputy Havens, who was the evidence  11   technician, that because I was involved in the critical  12   incident, that I would not be the one writing the report;  13   that they would have to find a different primary report  14   writer.</p> <p>15      Q. I understand they found someone other than you  16   to write the primary report, but other involved officers  17   wrote supplemental reports.</p> <p>18      A. Yes, sir.</p> <p>19      Q. Why didn't you write a supplemental report?</p> <p>20      MR. ANDRADA: Again, it's argumentative. I think  21   it's essentially been asked and answered.</p> <p>22      But go ahead again.</p> <p>23      THE WITNESS: Again, I was told there was going to  24   be a primary, and I was questioned about that. I was  25   questioned about the incident from the primary officer</p>
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<p>1       A. Yes, I did.</p> <p>2      Q. And did you have a serious injury?</p> <p>3       A. No, I did not.</p> <p>4      Q. How long did it take you to recover from that  5   shoulder injury?</p> <p>6       A. Couple days maybe. It wasn't anything really  7   severe.</p> <p>8      Q. Did you file a workers' comp claim for it?</p> <p>9       A. I don't think I -- actually, I think the  10   department did. I think the department -- because I had  11   to go get checked out and cleared.</p> <p>12      Q. Did you miss any work because of it?</p> <p>13       A. I was placed on a -- let me back up. When I  14   got back to the jail and after being released from the  15   hospital, I finished out my shift. Basically, my shift  16   consisted of -- from that point, of typing a red book,  17   which is basically a summary to let other people know what  18   happened. And then I was off when my shift was over.</p> <p>19      Q. Do you know how you sustained that shoulder  20   injury?</p> <p>21       A. The only thing I can think of is that it was  22   during when I fell.</p> <p>23      Q. Did you write a report about this incident?</p> <p>24       A. No, I did not.</p> <p>25      Q. How come?</p>	<p>1   who -- I told him kind of what happened.</p> <p>2      MR. HADDAD: Q. Who was that?</p> <p>3       A. Deputy Barenco.</p> <p>4      Q. So you gave a verbal description of what  5   happened to Deputy Barenco, right?</p> <p>6       A. The following day.</p> <p>7      Q. And same day at the hospital when you were  8   still there, you were interviewed by Sergeant Dudek,  9   right?</p> <p>10       A. Correct.</p> <p>11      Q. Then you were interviewed again by  12   Sergeant Ritter on August 24th, correct?</p> <p>13       A. Yes, sir.</p> <p>14      Q. Now, each time you gave information to anybody  15   from your department about this incident, were you  16   truthful?</p> <p>17       A. To the best of my knowledge.</p> <p>18      Q. Okay. And you understood how important it was  19   for all of those interviews to be totally complete and  20   thorough in all of your answers, right?</p> <p>21       A. Yes, sir.</p> <p>22      THE WITNESS: Can I use the restroom again?</p> <p>23      MR. HADDAD: Let's take a break.</p> <p>24      (Recess taken from 4:48 p.m. to 5:06 p.m.)</p> <p>25      MR. HADDAD: Q. So other than giving interviews to</p>

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<p style="text-align: right;">149</p> <p>1 Sergeant Dudek and Sergeant Ritter, did you have any other 2 involvement in the investigation of this?</p> <p>3 <b>A. The next day, Deputy Barenco asked me what had 4 happened, because he ended up being given the primary role 5 of the report writing.</b></p> <p>6 Q. Deputy Barenco?</p> <p>7 <b>A. Barenco.</b></p> <p>8 Q. And where did you discuss this with him?</p> <p>9 <b>A. In the clinic.</b></p> <p>10 Q. What clinic?</p> <p>11 <b>A. The jail clinic.</b></p> <p>12 Q. And why did that discussion take place there?</p> <p>13 <b>A. Because that's where he was assigned at the 14 time.</b></p> <p>15 Q. So you told him what happened?</p> <p>16 <b>A. Yeah.</b></p> <p>17 Q. Did you have any other involvement in the 18 investigation?</p> <p>19 <b>A. Not that I could recall.</b></p> <p>20 Q. Did you collect any evidence or anything like 21 that?</p> <p>22 <b>A. No. My recollection is that there was another 23 deputy who collected that.</b></p> <p>24 Q. Were you talked to or counseled by any superior 25 officer about your conduct in this incident?</p>	<p style="text-align: right;">151</p> <p>1 that at that time?</p> <p>2 <b>A. I don't recall him actually saying that. I 3 don't recall him saying that.</b></p> <p>4 Q. Did he explain to you that if you had decided 5 to move Harrison, you should have handcuffed him through 6 the slot in the door instead of opening the door and 7 putting yourself in danger?</p> <p>8 <b>A. I don't recall him saying anything about the 9 slot in the door.</b></p> <p>10 Q. So what else did Sergeant Bricker say about 11 that decision and any complacency on your part?</p> <p>12 <b>A. I don't recall the conversation. I remember 13 him saying specifically those two things, but I don't 14 remember much of the conversation. He basically came in 15 to do his walk-through and to see how we were doing.</b></p> <p>16 Q. Did he tell you that this whole incident could 17 have been avoided and Martin Harrison could have still 18 been alive if you had made a better decision than the one 19 that you had made?</p> <p>20 <b>A. I don't recall him saying anything like that.</b></p> <p>21 Q. Did anybody else -- strike that.</p> <p>22 So where did this conversation with 23 Sergeant Bricker happen?</p> <p>24 <b>A. It happened in Housing Unit 33 on the east 25 side.</b></p>
<p style="text-align: right;">150</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. Who was that?</p> <p>3 <b>A. Sergeant Bricker.</b></p> <p>4 Q. When did that take place?</p> <p>5 <b>A. I think it was the first or second day I came 6 back.</b></p> <p>7 Q. Okay. And what did Sergeant Bricker say to 8 you?</p> <p>9 <b>A. That I -- that I was complacent.</b></p> <p>10 Q. In what way?</p> <p>11 <b>A. Making a bad decision.</b></p> <p>12 Q. What was the bad decision he said you made?</p> <p>13 <b>A. Trying to move Mr. Harrison.</b></p> <p>14 Q. Specifically, what did he explain to you was 15 bad about that decision?</p> <p>16 <b>A. I don't recall everything. It was a little 17 over a year ago. I remember him saying that I was 18 complacent.</b></p> <p>19 MR. BURRIS: I'm sorry, "complacent"? Is that the 20 term you used, "complacent"?</p> <p>21 THE WITNESS: Yes, that's what he mentioned and 22 that he didn't think that moving him at that time was the 23 right thing to do.</p> <p>24 MR. HADDAD: Q. Did he explain to you that he 25 thought you should have gotten backup if you wanted to do</p>	<p style="text-align: right;">152</p> <p>1 Q. Was anybody else present for that?</p> <p>2 <b>A. Deputy -- I believe it was deputy -- there was 3 not -- Deputy Mills, I think that was who...</b></p> <p>4 Q. And why was Deputy Mills there?</p> <p>5 <b>A. He was just -- at that particular night, he was 6 a second deputy that was assigned to the house.</b></p> <p>7 Q. And how long had you known Sergeant Bricker at 8 that time?</p> <p>9 <b>A. I've known of Sergeant Bricker. I haven't had 10 a lot of run-ins with him. So I would say my direct 11 contact was when I came to the jail in April.</b></p> <p>12 Q. Was he ever one of your supervising sergeants?</p> <p>13 <b>A. Not prior to that.</b></p> <p>14 Q. But at some point was he?</p> <p>15 <b>A. Yes, he was one of my supervisors.</b></p> <p>16 Q. So at the time that the Harrison incident 17 happened, he was your supervising sergeant, correct?</p> <p>18 <b>A. Correct.</b></p> <p>19 Q. So it was -- part of his job was to supervise 20 you, right?</p> <p>21 <b>A. Yeah. There's three sergeants assigned to the 22 team.</b></p> <p>23 Q. All right. And part of his job was to make a 24 determination if he thought that your conduct was poor in 25 any particular incident, right?</p>

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<p>1       MR. ANDRADA: Objection. Vague and ambiguous as to    2 what you mean by "poor."    3       Go ahead.    4       THE WITNESS: Yes. His job is to supervise and    5 counsel people, I guess you can say.    6       MR. HADDAD: Q. Did he give you anything in    7 writing about that?    8       <b>A. I don't recall ever getting anything -- well,</b>    9 <b>I'm sorry, not specifically towards that. I got an</b>    10 <b>evaluation when I got transferred to the Coroner's Bureau.</b>    11       Q. Okay. That evaluation mentioned this incident,    12 right?    13       <b>A. It didn't say specifically -- I mean, I knew</b>    14 <b>what he was talking about, but he -- yeah, he referred to</b>    15 <b>it.</b>    16       Q. Did you ever try to contest his evaluation of    17 you or his criticism of you with anybody?    18       <b>A. Yes.</b>    19       Q. And what did you do?    20       <b>A. I basically -- I was already at the Coroner's</b>    21 <b>Bureau at the time when I got the evaluation, and I didn't</b>    22 <b>agree with what Sergeant Bricker had said.</b>    23       Q. So what did you do about that?    24       <b>A. I couldn't believe that this was written. I</b>    25 <b>went to my supervisor at the time and I said, "I can't</b></p>	<p>1       MR. HADDAD: Q. Okay. So you've had an    2 opportunity to reflect on the incident and what you did in    3 the incident and leading up to it.    4       So knowing what you know now, would you do anything    5 different?    6       MR. ANDRADA: It's not relevant or reasonably    7 calculated.    8       But go ahead and answer the question.    9       THE WITNESS: Looking how the situation happened,    10 looking at the totality of everything and the results of    11 this, if I were put into the same -- are you asking if I    12 were put in the same -- I'm confused maybe.    13       MR. HADDAD: Q. If you could go back and do this    14 over again, knowing what you know now, would you do    15 anything different?    16       <b>A. I can't say "yes" or "no" on that. I can't say</b>    17 <b>"yes" or "no" on that. I don't know. What I could say is</b>    18 <b>the result of this is it's a tragedy, and I don't feel</b>    19 <b>good about what happened. I can't change what happened,</b>    20 <b>but I can't say that, well, if I was in the same situation</b>    21 <b>again, would I do the same thing. I don't know. But I</b>    22 <b>don't -- I'll just leave it at that.</b>    23       Q. Are you critical of any of your own conduct in    24 this incident?    25       MR. ANDRADA: Again, relevance, not reasonably</p>
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<p>1 <b>believe this was written.</b>"    2       Q. What was it about the fact that he put it in    3 writing that -- that made you feel like you just couldn't    4 believe it?    5       <b>A. Well, because he gives me a rating of needs</b>    6 <b>improvement off of one judgment call that he wasn't even</b>    7 <b>there.</b>    8       Q. So did you do anything to formally contest his    9 evaluation of you?    10       <b>A. I was going to, but I opted not to.</b>    11       Q. What were you considering doing?    12       <b>A. After -- when I got the evaluation, I was going</b>    13 <b>to write a rebuttal to that evaluation stating that I felt</b>    14 <b>it was unfair due to my track record of previous</b>    15 <b>evaluations to -- to narrow down to this decision off of</b>    16 <b>one incident.</b>    17       Q. Had you ever been criticized in any other    18 performance evaluation for that type of decision-making?    19       MR. ANDRADA: Objection. Vague and ambiguous.    20       THE WITNESS: I don't recall --    21       MR. ANDRADA: Go ahead.    22       THE WITNESS: -- any evaluations. I know I had a    23 patrol evaluation when I left the program. But, I mean,    24 that wasn't -- it wasn't all negative. It was    25 constructive criticism.</p>	<p>1 calculated.    2       But go ahead.    3       THE WITNESS: No, I'm not.    4       MR. HADDAD: Mark this, please.    5       (Plaintiffs' Exhibit 3 was marked for    6 identification.)    7       MR. HADDAD: Q. So I marked one of your    8 performance evaluations as Exhibit 3.    9       Is that the one that we've just been talking about?    10       <b>A. Yes, sir.</b>    11       Q. So just for the record, this is during the    12 review period November 4th, 2009 to January 22nd, 2011,    13 and this was the performance evaluation that was done by    14 Sergeant Bricker, right?    15       <b>A. Yes, sir.</b>    16       Q. And if you turn to Page 3, under Section 7,    17 this is entitled "Leadership/Decision Making." And on the    18 form it explains that, under the section, what they're    19 looking at is the extent to which the employee is    20 effective in motivating and developing other employees,    21 delegating assignments, controlling work, and supporting    22 other employee suggestions. And the extent to which the    23 employee's decisions are within policy and are clearly    24 explained.    25       For that one he checked the box "Improvement</p>

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<p>1    Needed," right?</p> <p>2    <b>A. Yes, sir.</b></p> <p>3    Q. And Sergeant Bricker wrote, quote,</p> <p>4    "Deputy Sheriff Ahlf does demonstrate good, sound judgment</p> <p>5    when confronted with the nuances of his assignment.</p> <p>6    However, there are a few instances where Deputy</p> <p>7    Sheriff Ahlf had a lapse in judgment. One incident</p> <p>8    involved opening a door without additional assistance</p> <p>9    where a combative inmate was contained." I'll just stop</p> <p>10   there.</p> <p>11       That -- that, you believe, refers to this incident,</p> <p>12   right?</p> <p>13       <b>A. Yes.</b></p> <p>14       Q. Okay. So he characterized that you had a lapse</p> <p>15   of judgment in opening Harrison's door to his cell without</p> <p>16   additional assistance, correct?</p> <p>17       <b>A. Correct. That's what I'm reading into it,</b></p> <p>18   <b>yeah.</b></p> <p>19       Q. And then he went on in the evaluation. He</p> <p>20   says, quote, "The other instance involved a hospital</p> <p>21   security detail. After both instances, Deputy</p> <p>22   Sheriff Ahlf concurred he should have sought the advice of</p> <p>23   a supervisor or consult Agency policy and procedure.</p> <p>24   Deputy Ahlf believes in hard work and dedication to the</p> <p>25   Agency."</p>	<p>1    Bricker's assessment that you should have sought the</p> <p>2   advice of a supervisor or consult agency policy and</p> <p>3   procedure before deciding to single-handedly extract</p> <p>4   Harrison from the flooded cell?</p> <p>5       <b>A. At that time, no, because he wasn't aggressive</b></p> <p>6   <b>towards me, and he was compliant to everything I said.</b></p> <p>7       MR. HADDAD: Okay. Would you please mark this.</p> <p>8       (Plaintiffs' Exhibit 4 was marked for</p> <p>9   identification.)</p> <p>10       MR. HADDAD: Q. So we've marked, as Exhibit 4,</p> <p>11   your previous evaluation that goes from the period of</p> <p>12   August 23, 2009 to November 3rd, 2009.</p> <p>13       And can you tell which supervisor evaluated you</p> <p>14   during that period?</p> <p>15       <b>A. Yes.</b></p> <p>16       Q. Who is that?</p> <p>17       <b>A. At that time, it was Sergeant Toms.</b></p> <p>18       MR. BURRIS: Thomas?</p> <p>19       THE WITNESS: "Toms."</p> <p>20       MR. HADDAD: Q. There's a section there, Section</p> <p>21   No. 9 on Page 4, pertaining to e -- evaluating you for</p> <p>22   controlled conflict, voice command, physical skills,</p> <p>23   problem solving, and decision-making, and that was an</p> <p>24   area, during that period of time, that you were judged</p> <p>25   improvement needed.</p>

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<p style="text-align: right;">161</p> <p>1       <b>A. I was dealing with a family situation where --</b></p> <p>2       MR. ANDRADA: You don't have to go into the</p> <p>3       specifics of a family private matter.</p> <p>4       MR. HADDAD: That's right.</p> <p>5       THE WITNESS: I had a family situation prior to me</p> <p>6       going through the program, and, unfortunately, it went</p> <p>7       downhill from there while I was in the program, and I knew</p> <p>8       I was having problems. I wanted to continue to keep</p> <p>9       going. I spoke with my training officers and let them</p> <p>10      know about situations that were going on. And I even let</p> <p>11      them know that if I ever got to a point where I was either</p> <p>12      unsafe to myself or unsafe to them, that I would put</p> <p>13      myself out.</p> <p>14      So I knew that I was not -- on a lot of portions, I</p> <p>15      knew I was not up to par on a patrol aspect because I was</p> <p>16      dealing with other things that, unfortunately -- I was</p> <p>17      just dealing with other things on the outside that</p> <p>18      mattered.</p> <p>19      MR. HADDAD: Q. At the time of the Harrison</p> <p>20      incident, were you dealing with any personal matters or</p> <p>21      family matters that you believe affected your judgment or</p> <p>22      conduct in any way in the Harrison situation?</p> <p>23      <b>A. No.</b></p> <p>24      MR. HADDAD: That's all I have right now.</p> <p>25      MR. BURRIS: I have a few.</p>	<p style="text-align: right;">163</p> <p>1       Q. During that period of time, 1816 and 1832, you</p> <p>2       would consider that as bizarre behavior, correct?</p> <p>3      <b>A. Yes, that is.</b></p> <p>4       Q. So I'm just curious, as you have "8" here, and</p> <p>5       Mike asked you earlier whether or not you completed these</p> <p>6       notations here contemporaneously or later.</p> <p>7       And do you recall that you said that you did it</p> <p>8       contemporaneously?</p> <p>9      <b>A. I did it -- when I came in, I would check as</b></p> <p>10      <b>often as I could. Approximately, they always want you to</b></p> <p>11      <b>check close to 15 minutes. Those notations on there were</b></p> <p>12      <b>when I checked.</b></p> <p>13      Q. So you see him in the period of time that you</p> <p>14      described with his mattress on his head, and you consider</p> <p>15      that bizarre behavior?</p> <p>16      MR. ANDRADA: Asked and answered.</p> <p>17      Go ahead again.</p> <p>18      MR. BURRIS: Foundation.</p> <p>19      THE WITNESS: Yes, along with the other</p> <p>20      observations.</p> <p>21      MR. BURRIS: That's not my question.</p> <p>22      Q. What were the other observation you were making</p> <p>23      about him during that period of time, other than the</p> <p>24      mattress?</p> <p>25      <b>A. I didn't note on him, but he had -- he was</b></p>
<p style="text-align: right;">162</p> <p>1       <b>EXAMINATION BY MR. BURRIS</b></p> <p>2       MR. BURRIS: Q. Looking at -- Deputy, looking at</p> <p>3       Plaintiffs' 2 -- and just for clarity, if I call you</p> <p>4       "officer," you know I mean no disrespect. I work with so</p> <p>5       many different agencies.</p> <p>6       So, Deputy, looking at Plaintiffs' 2 and you</p> <p>7       indicated, at some point in time, I believe, that</p> <p>8       Mr. Harrison was talking gibberish or acting in a bizarre</p> <p>9       manner, correct?</p> <p>10      <b>A. Yes, sir.</b></p> <p>11      Q. Now, is that -- would you identify the part</p> <p>12      that is here at 0420 to 0445 as that period of time, or</p> <p>13      was that before?</p> <p>14      <b>A. That was before, sir.</b></p> <p>15      Q. You also indicate there was a time, when you</p> <p>16      were walking, he had a mattress on his head?</p> <p>17      <b>A. Yes, sir.</b></p> <p>18      Q. Okay. And when was that?</p> <p>19      <b>A. That was somewhere in the range of,</b></p> <p>20      <b>approximate, between 1816 and possibly around 1832,</b></p> <p>21      <b>somewhere around there.</b></p> <p>22      Q. Between 1816 and 1832?</p> <p>23      <b>A. Roughly.</b></p> <p>24      Q. Roughly? I'm not trying to pin you down.</p> <p>25      <b>A. Yes, sir.</b></p>	<p style="text-align: right;">164</p> <p>1       <b>pointing at the wall saying that somebody had a gun.</b></p> <p>2       <b>Somebody was going to get him; they were shooting at him.</b></p> <p>3       Q. So he was talking about being threatened in</p> <p>4       some way?</p> <p>5      <b>A. Yes, sir.</b></p> <p>6       Q. And that was pretty clear that wasn't true,</p> <p>7       correct?</p> <p>8      <b>A. Yes, sir.</b></p> <p>9       Q. So, in many ways, his conversation and his</p> <p>10      conduct that he was exhibiting at the time certainly was a</p> <p>11      person who was not in touch with reality, seemingly, from</p> <p>12      your point of view?</p> <p>13      MR. ANDRADA: Objection. Vague and ambiguous as to</p> <p>14      what you mean by "in touch with reality."</p> <p>15      But go ahead.</p> <p>16      THE WITNESS: I --</p> <p>17      MR. BURRIS: Q. Well, let's put it this way --</p> <p>18      <b>A. It was definitely an odd -- I mean, it was not</b></p> <p>19      <b>a normal state.</b></p> <p>20      Q. Right. The guy was talking about someone -- a</p> <p>21      gun coming after him.</p> <p>22      You knew that wasn't true, right?</p> <p>23      <b>A. Right.</b></p> <p>24      Q. So that wasn't a reality-based statement he was</p> <p>25      making, right?</p>

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<p>1       <b>A. Correct.</b></p> <p>2       Q. He was making other statements that were not</p> <p>3 reality-based, given what he was and your observation of</p> <p>4 him, correct?</p> <p>5       <b>A. Yes.</b></p> <p>6       Q. So from your point of view, this was a person</p> <p>7 who appeared to be having some kind of mental problem,</p> <p>8 fair?</p> <p>9       MR. ANDRADA: Objection. Vague and ambiguous.</p> <p>10      MR. BURRIS: Q. Well, from your observation.</p> <p>11      MR. ANDRADA: You know what?</p> <p>12      MR. BURRIS: I don't want to argue</p> <p>13      MR. ANDRADA: I know.</p> <p>14      Objection. Vague and ambiguous as to what is meant</p> <p>15 by "mental problem."</p> <p>16      Go ahead, Deputy.</p> <p>17      THE WITNESS: What I can answer to that is it was</p> <p>18 not of normal conduct of somebody that would be in a</p> <p>19 minimum-setting security.</p> <p>20      MR. BURRIS: Q. So -- and that conduct that he was</p> <p>21 engaged in in terms of verbally was consistent with the</p> <p>22 conduct that you had heard him engaged in earlier when you</p> <p>23 first put him in the cell, correct?</p> <p>24      <b>A. Yes. Yes.</b></p> <p>25      Q. So what I'm curious about is you have this --</p>	<p>1       Is that what you're telling us?"</p> <p>2       MR. BURRIS: "Attacking" is the wrong word.</p> <p>3       Q. When you initially made contact with him, you</p> <p>4 pushed him first, correct?</p> <p>5       <b>A. After -- yes.</b></p> <p>6       Q. You pushed -- you pushed him first. He had not</p> <p>7 pushed you. He had not attacked you. He, in fact,</p> <p>8 appeared to be cooperating with you, correct?</p> <p>9       MR. ANDRADA: That misstates the testimony.</p> <p>10      Go ahead. Listen to the question and answer the</p> <p>11 question.</p> <p>12      THE WITNESS: The term "pushed" -- I nudged him --</p> <p>13 I mean, I --</p> <p>14      MR. BURRIS: I'm going to use your term.</p> <p>15      Q. He's walking. You pushed him away from you,</p> <p>16 right?</p> <p>17      <b>A. When he was in between the doorway.</b></p> <p>18      Q. Yeah, you push him. Okay?</p> <p>19      <b>A. To go back in.</b></p> <p>20      Q. That's the first physical contact that occurred</p> <p>21 between you or he, correct?</p> <p>22      <b>A. Correct.</b></p> <p>23      Q. Now, up until that moment, had he been -- he</p> <p>24 had been talking in a way that would -- was not really in</p> <p>25 touch with reality, correct?</p>
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<p>1 observations here, and certainly from 1816 on, you just</p> <p>2 indicate that he's awake in bed.</p> <p>3       But is there any reason why you don't explain</p> <p>4 further that -- about the conduct you described?</p> <p>5       <b>A. No, sir.</b></p> <p>6       Q. Now, this particular document, is it a running</p> <p>7 tab, so to speak, that is located in a place that anyone</p> <p>8 could see?</p> <p>9       <b>A. Yes. It's located outside the door.</b></p> <p>10      Q. Outside the door. Okay.</p> <p>11      And so, now, after you start making physical</p> <p>12 contact with Mr. Harrison, at any point in time did his</p> <p>13 communication with you continue to be of this -- of the</p> <p>14 nature that someone was attacking him or he was sort of</p> <p>15 disoriented as it relates to reality?</p> <p>16      <b>A. No.</b></p> <p>17      Q. When you started attacking, he became very</p> <p>18 clear in terms of his state.</p> <p>19      Is that what you're telling us?</p> <p>20      MR. ANDRADA: I'm sorry. Could I have that read</p> <p>21 back. Excuse me.</p> <p>22      (Record read as follows:</p> <p>23        "QUESTION: When you started</p> <p>24 attacking, he became very clear in terms of</p> <p>25 his state.</p>	<p>1       <b>A. Not all the time, no.</b></p> <p>2       Q. So you didn't have any sense that he, all of a</p> <p>3 sudden, was a person that was speaking and so clearly in</p> <p>4 touch with reality that he could move back to the pod,</p> <p>5 correct?</p> <p>6       <b>A. I knew he couldn't go back to the pod.</b></p> <p>7       Q. He could not.</p> <p>8       <b>A. I was not comfortable with having him in a</b></p> <p>9 <b>mainline population based on his prior actions.</b></p> <p>10      Q. And he hadn't said anything to you that</p> <p>11 suggested in any way that he should go back to the</p> <p>12 mainline population, correct?</p> <p>13      <b>A. Correct.</b></p> <p>14      MR. BURRIS: Do you want to take a break?</p> <p>15      MR. ANDRADA: No, that's fine.</p> <p>16      MR. BURRIS: Q. Now, after this physical contact</p> <p>17 that you had with him and up until the time that he</p> <p>18 essentially was removed and placed in the other cell,</p> <p>19 did -- at any point in time, did he speak continually in</p> <p>20 this disoriented reality-based way?</p> <p>21      <b>A. No.</b></p> <p>22      Q. So you had a sense, of course, then, it seems</p> <p>23 to me, that when you were dealing with him, you knew you</p> <p>24 were dealing with a person at all times who may not have</p> <p>25 been in touch with reality, correct?</p>

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<p style="text-align: right;">169</p> <p>1       MR. ANDRADA: Objection. Vague and ambiguous, 2 misstates his earlier testimony.</p> <p>3       MR. BURRIS: Q. You can answer the question.</p> <p>4       MR. ANDRADA: Go ahead.</p> <p>5       THE WITNESS: I'm not sure exactly what you're 6 asking.</p> <p>7       MR. BURRIS: Q. At any point in time, did you have 8 any real view that he was not in touch with reality?</p> <p>9       MR. ANDRADA: I'm sorry. Not in touch.</p> <p>10      MR. BURRIS: Not in touch.</p> <p>11      MR. ANDRADA: Not in touch. All right.</p> <p>12      Listen to the question. Answer the question.</p> <p>13      THE WITNESS: While -- I mean, it was evident that 14 while he had that mattress over his head and he was 15 claiming somebody had a gun and shooting at him and 16 wanting to get him, that it was clear that he was 17 hallucinating and he was going through something. There 18 was something not right about him.</p> <p>19      MR. BURRIS: Q. Now, what equipment did you have 20 on your duty belt?</p> <p>21      <b>A. I had pepper spray. I had -- I think I had 22 pepper spray. I think -- actually, yeah, pepper spray. I 23 had handcuffs. I had Taser.</b></p> <p>24      Q. Did you -- what kind of shoes were you wearing?</p> <p>25      <b>A. Normal -- they were my normal boots that I</b></p>	<p style="text-align: right;">171</p> <p>1       <b>A. If we request one, we can have the technician 2 get one for us.</b></p> <p>3       Q. So when you're in a situation where there's a 4 confrontation taking place and occurring between deputies 5 and inmates, is there a call for batons?</p> <p>6       MR. ANDRADA: Vague and ambiguous.</p> <p>7       But go ahead if you understand what he's asking 8 you.</p> <p>9       THE WITNESS: There's been times when I'll --</p> <p>10      MR. ANDRADA: Finish your answer and then we'll 11 take a break. Finish your answer.</p> <p>12      THE WITNESS: Yes, people can grab batons upon 13 request.</p> <p>14      MR. ANDRADA: Okay. Hang on. Let's take 15 30 seconds.</p> <p>16      (Recess taken from 5:37 p.m. to 5:37 p.m.)</p> <p>17      MR. ANDRADA: Thank you.</p> <p>18      MR. BURRIS: Q. So when you were with 19 Mr. Harrison, no batons were present. Is that right?</p> <p>20      <b>A. They were up in the housing control.</b></p> <p>21      Q. Were any batons present --</p> <p>22      <b>A. No.</b></p> <p>23      Q. -- when -- when you and the other officers were 24 in contact with Mr. Harrison?</p> <p>25      <b>A. I don't recall anybody carrying a baton.</b></p>
<p style="text-align: right;">170</p> <p>1      <b>would wear.</b></p> <p>2      Q. I don't know what normal boots are.</p> <p>3      <b>A. I'm sorry. They were rocky style.</b></p> <p>4      Q. Are they like what you have on now?</p> <p>5      <b>A. Similar.</b></p> <p>6      Q. Are those steel-toed?</p> <p>7      <b>A. No, sir.</b></p> <p>8      Q. Just rubber-based toes?</p> <p>9      <b>A. Yes, sir.</b></p> <p>10     Q. Those shoes that you had on were similar?</p> <p>11     <b>A. They are similar. Yeah, these are a little 12 bit --</b></p> <p>13     Q. Not bigger? wider? less?</p> <p>14     <b>A. No.</b></p> <p>15     Q. But it was similar.</p> <p>16     <b>A. It was a different brand.</b></p> <p>17     Q. Okay. Now, as part of your -- did you have a 18 baton of any kind?</p> <p>19     <b>A. No, sir.</b></p> <p>20     Q. Okay. Do you have batons?</p> <p>21     <b>A. In the housing controls we do.</b></p> <p>22     Q. Okay. And who has access to those?</p> <p>23     <b>A. The technicians.</b></p> <p>24     Q. So deputies like yourself do not have access to 25 them?</p>	<p style="text-align: right;">172</p> <p>1      Q. Okay. Does that mean you do not know whether 2 or not any other officer had a baton?</p> <p>3      <b>A. Correct.</b></p> <p>4      Q. Now, there was a period of time, or was there, 5 when you were removed from Mr. Harrison, correct?</p> <p>6      <b>A. Yes, sir.</b></p> <p>7      Q. And when you were removed from Mr. Harrison, 8 where were you taken?</p> <p>9      <b>A. Just up a few feet.</b></p> <p>10     Q. A few feet away.</p> <p>11     You were not removed from the scene, correct?</p> <p>12     <b>A. No, sir.</b></p> <p>13     Q. Now -- and the other officers, were they still 14 with Mr. -- deputies still with Mr. Harrison?</p> <p>15     <b>A. Yes, sir.</b></p> <p>16     Q. Did you see any one of them use their knees 17 against Mr. Harrison while you were standing there?</p> <p>18     <b>A. I don't know if -- I mean, I saw -- I don't 19 recall seeing knees. I recall seeing...</b></p> <p>20     Q. You saw punches?</p> <p>21     <b>A. I saw maybe one or two punches --</b></p> <p>22     Q. Okay.</p> <p>23     <b>A. -- but my back was towards them at that time.</b></p> <p>24     Q. Okay. So you get pulled off, and your back is 25 then turned to Mr. Harrison and the other officers?</p>

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<p style="text-align: right;">173</p> <p>1       <b>A. I get pulled off, and I'm, like, kind of canted</b>  2       <b>a little bit, but I'm continuing to kind of look.</b></p> <p>3       Q. You see one or two punches, you said?</p> <p>4       <b>A. Yeah. I don't recall exactly who and how many.</b></p> <p>5       Q. Did the people -- the person -- the punches --</p> <p>6       did those individuals have gloves on?</p> <p>7       <b>A. I don't recall.</b></p> <p>8       Q. Did you have gloves on?</p> <p>9       <b>A. I believe so.</b></p> <p>10      Q. So when you were punching Mr. Harrison, you had</p> <p>11      your gloves on?</p> <p>12      <b>A. I believe so. I can't recall if I had them on.</b></p> <p>13      <b>I know that I had them on my body. Whether or not I had</b>  14      <b>them on, I don't recall.</b></p> <p>15      Q. And did you see anyone kick Mr. Harrison with</p> <p>16      their feet?</p> <p>17      <b>A. No, I did not.</b></p> <p>18      Q. Did you?</p> <p>19      <b>A. No, I did not.</b></p> <p>20      Q. You did not?</p> <p>21      <b>A. No, I did not.</b></p> <p>22      Q. And you did not see anyone kick?</p> <p>23      <b>A. No, I did not.</b></p> <p>24      Q. Did you see any officer -- strike that.</p> <p>25      Did you in any way strike Mr. Harrison on his legs</p>	<p style="text-align: right;">175</p> <p>1       Q. That's what I'm trying to find out.</p> <p>2       When you say "controlling his arms," does that mean</p> <p>3       you have your hands gripping his arms, or do you have him</p> <p>4       in a bear hug or some other method?</p> <p>5       <b>A. I know it wasn't a bear hug.</b></p> <p>6       Q. It's not a bear hug.</p> <p>7       <b>A. I had his arms -- I --</b></p> <p>8       Q. You're controlling his arms. I don't want to</p> <p>9       miss anything.</p> <p>10      MR. ANDRADA: Let him finish.</p> <p>11      Go ahead.</p> <p>12      THE WITNESS: I --</p> <p>13      MR. ANDRADA: Finish your answer.</p> <p>14      THE WITNESS: Really, to be honest with you, so</p> <p>15      close to proximity, all I can tell you is I had him in a</p> <p>16      controlling hold where his arms were not able to swing at</p> <p>17      me. That's all I can recall. I don't --</p> <p>18      MR. BURRIS: Q. Did you -- and I'm just trying to</p> <p>19      find out -- just probing this to be clear. I want the</p> <p>20      record to be clear.</p> <p>21      When you're doing this, are you using your hands to</p> <p>22      grip his arms and control him?</p> <p>23      <b>A. I -- no. I don't recall ever, like, holding</b>  24      <b>him and holding his arms. I recall just using my body</b>  25      <b>weight and holding his arms in a position where he wasn't</b></p>
<p style="text-align: right;">174</p> <p>1       with any item?</p> <p>2       <b>A. No, sir.</b></p> <p>3       Q. You didn't punch him? You didn't knee him on</p> <p>4       his legs?</p> <p>5       <b>A. No, sir.</b></p> <p>6       Q. Did you see anybody else punch him on his legs?</p> <p>7       <b>A. No, sir.</b></p> <p>8       Q. Did you see anyone else knee him on his legs?</p> <p>9       <b>A. No, sir.</b></p> <p>10      Q. And you didn't see anyone kick him on his legs?</p> <p>11      <b>A. No, sir.</b></p> <p>12      Q. Now, you had your arms around him, right, when</p> <p>13      he was on the floor?</p> <p>14      MR. ANDRADA: Objection. Vague and ambiguous as to</p> <p>15      time.</p> <p>16      But go ahead.</p> <p>17      MR. BURRIS: You're right about that.</p> <p>18      Q. At one point in time, you were on --</p> <p>19      Mr. Harrison is on the floor, right?</p> <p>20      <b>A. Yes, sir.</b></p> <p>21      Q. And you're on top of him, correct?</p> <p>22      <b>A. Yes, sir.</b></p> <p>23      Q. And you have your arms around him?</p> <p>24      <b>A. I had my arms controlling his arm --</b>  25      <b>controlling his arms.</b></p>	<p style="text-align: right;">176</p> <p>1       <b>able to move.</b></p> <p>2       Q. So you are, essentially, smothering him, then,</p> <p>3       in a sense?</p> <p>4       MR. ANDRADA: Well --</p> <p>5       MR. BURRIS: And I don't mean choking him where he</p> <p>6       can't breath. Let me finish the point without having a</p> <p>7       fit.</p> <p>8       Q. You -- he's on the floor. Okay? You're on top</p> <p>9       of him, right? Correct?</p> <p>10      <b>A. Yes.</b></p> <p>11      Q. And you're on top of him for the purpose of</p> <p>12      preventing him from moving, correct?</p> <p>13      <b>A. Correct.</b></p> <p>14      Q. I'm not saying you're trying to keep him from</p> <p>15      breathing, but you're trying to keep him from moving.</p> <p>16      <b>A. Well, can I answer that real quick?</b></p> <p>17      Q. Yeah. That's why we're here.</p> <p>18      <b>A. His body is laying right here --</b></p> <p>19      Q. Yeah.</p> <p>20      <b>A. -- I'm laying, like, right here.</b></p> <p>21      Q. Across his body.</p> <p>22      <b>A. Across his body. I'm not, like, laying</b>  23      <b>directly right on top of him.</b></p> <p>24      Q. All right.</p> <p>25      <b>A. Okay? And I have his arms somewhere in the</b></p>

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<p>1   <b>range of something like this. So I have no -- nothing</b>    2   <b>towards his legs controlling -- trying to control his arms</b>    3   <b>and his hands.</b></p> <p>4   Q. So he's -- his arms are underneath him?</p> <p>5   A. His arms, at that point -- because he was    6   <b>starting -- originally, yes. As we -- as the struggle</b>    7   <b>came about, he ended up bringing his arms -- I can't tell</b>    8   <b>you --</b></p> <p>9   Q. Did his arms come out from under his body?</p> <p>10   A. <b>They -- they -- the whole reason for me holding</b>    11   <b>his arms down is because I'm thinking -- I'm anticipating</b>    12   <b>him trying to strike me.</b></p> <p>13   Q. I've heard you say that, but at no point in    14 time did he ever try to strike you, correct?</p> <p>15   A. <b>Correct.</b></p> <p>16   Q. So this is your anticipating in your own mind's    17 eye that he might be trying to strike you, correct?</p> <p>18   A. <b>Correct. I wasn't going to give him the</b>    19   <b>opportunity to.</b></p> <p>20   Q. He hadn't done anything indicating that he was    21 trying to strike you, right?</p> <p>22   A. <b>Well, the fact that he's thrashing and being</b>    23   <b>aggressive towards --</b></p> <p>24   Q. Isn't it really true?</p> <p>25   MR. ANDRADA: Let him finish.</p>	<p>1   MR. BURRIS: It's inappropriate for you to suggest    2 that the question should not be answered because it's not    3 a privacy question, and the fact that a subject matter may    4 have been asked by Mr. Haddad does not mean I cannot    5 explore it, and I wasn't clear about the answer that was    6 given before.</p> <p>7   And the fact that my tone is not something that you    8 find appropriate is not meant to be intimidating. It is    9 meant to be firm, and I want to find out, and I wanted to    10 find out, whether or not it happened the way he said it    11 did.</p> <p>12   If I offended you, I'm sorry. I don't want to    13 offend you. I'm trying to get to the end of this. We    14 have a dead man here. We're trying to find out about what    15 happened to him. Okay?</p> <p>16   THE WITNESS: Yes, sir.</p> <p>17   MR. BURRIS: I understand counsel's position.</p> <p>18   Q. Have you had a chance to see any of the -- you    19 work in the coroner's office, right?</p> <p>20   A. <b>Yes, sir.</b></p> <p>21   Q. What do you do for the coroner's office?</p> <p>22   A. <b>I handle death calls. I investigate the manner</b>    23   <b>of death and determine mode and manner.</b></p> <p>24   Q. Okay. So when we -- this report that we have    25 here was that -- is -- essentially has a coroner's</p>
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<p style="text-align: right;">181</p> <p>1 discussed with counsel.  2 MR. BURRIS: Of course.  3 Q. Other than counsel.  4 <b>A. I know the deputy who wrote that report, but I</b>  5 <b>specifically did not go verbatim and read the reports.</b>  6 Q. You had some discussion with the deputy who  7 wrote the report?  8 <b>A. I knew the deputy who was in charge of that</b>  9 <b>report. I didn't ask specific questions regarding this</b>  10 <b>report.</b>  11 Q. Did he have -- did the deputy share with you  12 the scope of injuries that were reflected on  13 Mr. Harrison's body?  14 <b>A. No.</b>  15 Q. Now, is it fair to say that when you saw  16 Mr. Harrison before this incident, that he did not show  17 any visible injuries around his neck or his body that you  18 could see?  19 <b>A. Correct.</b>  20 Q. So did you have discussions -- or strike that.  21 In terms of the -- has anyone shared with you the  22 types of injuries that were on the legs of Mr. Harrison?  23 <b>A. No, sir.</b>  24 Q. Do you know of anything you did that would have  25 caused contusions to the legs of Mr. Harrison?</p>	<p style="text-align: right;">183</p> <p>1 Q. And you did not strike his neck in any way?  2 <b>A. No, sir.</b>  3 Q. And you did not see anyone else strike his  4 neck. Is that correct?  5 <b>A. Yes, sir.</b>  6 Q. Now, in terms of the injuries that are  7 reflected on his arms, did you see anyone -- you said you  8 had not done it, but did you see any other officers,  9 deputies, if you will, engage any physical contact with  10 Mr. Harrison that would have caused significant injuries  11 to his arms?  12 <b>A. No, sir.</b>  13 Q. Is that also true with respect to his torso?  14 <b>A. As far as directly, yeah. Yes, sir.</b>  15 Q. You did -- as I recall, did strike him with  16 your knees on his torso. Is that correct?  17 <b>A. Yeah. Yes, sir.</b>  18 Q. Now, in the sequence of that, was Mr. -- when  19 you used your -- when you -- when you punched  20 Mr. Harrison -- and I don't recall this -- did you punch  21 him on the side of the face or on the head?  22 <b>A. It was open palm to the back of the head.</b>  23 Q. Back of the head.  24 Now, that's -- do you make a distinction in your  25 own mind's eye between a -- an open-handed slap and a</p>
<p style="text-align: right;">182</p> <p>1 <b>A. Not directly, no.</b>  2 Q. In terms of his arms, did you punch his arms at  3 all?  4 <b>A. No, sir.</b>  5 Q. Did you squeeze his arms?  6 <b>A. I don't recall ever squeezing his arms.</b>  7 Q. To the extent there were injuries reflected on  8 his arms, there was nothing you did that would have caused  9 those injuries. Is that fair?  10 <b>A. Yes, sir.</b>  11 Q. And I think Mike has covered this, but in terms  12 of -- to the extent that the autopsy reflects that there's  13 trauma around the neck of Mr. Harrison, there's nothing  14 you did, from your point of view, that would cause those  15 injuries. Is that fair?  16 <b>A. Nothing I can recall that would cause anything</b>  17 <b>like that, no.</b>  18 Q. Okay. Because -- is it fair to say you never  19 had your hands around his neck?  20 <b>A. I don't recall ever having my arms around his</b>  21 <b>neck?</b>  22 Q. I said hands. I'll ask about arms too.  23 Did you ever have any portion of an arm around his  24 neck.  25 <b>A. No, not that I can recall.</b></p>	<p style="text-align: right;">184</p> <p>1 punch?  2 <b>A. It's an open -- I know for a fact that it was</b>  3 <b>an open palm.</b>  4 Q. That's in the back of the head?  5 <b>A. Yes, sir.</b>  6 Q. Now, the question -- the question is: Did you  7 make a distinction between an open-handed hit and a punch?  8 Do you make a physical distinction in your own mind's eye?  9 MR. ANDRADA: He's not asking whether you punched  10 him --  11 MR. BURRIS: Q. I'm not asking if you actually  12 punched him. I said, Do you make a distinction between  13 the physical striking of someone with an open hand versus  14 punching them?  15 <b>A. I --</b>  16 Q. Do you know what a punch is?  17 <b>A. I know what a punch is. It's closed fist.</b>  18 Q. An open-handed hit is your hand open.  19 <b>A. Yes.</b>  20 Q. Now, you did punch him, or did you not? I'm  21 asking the question.  22 <b>A. I strike him with an open palm.</b>  23 Q. You never punched him?  24 <b>A. Not in the head.</b>  25 Q. You punched him where?</p>

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<p>1       <b>A. In the back.</b></p> <p>2       Q. In the back, and where in the back?</p> <p>3       <b>A. I don't --</b></p> <p>4       Q. Shoulder? mid-back?</p> <p>5       <b>A. It was probably mid-back.</b></p> <p>6       Q. And you did that more than once? And I don't 7       know the answer to that. I mean, did you?</p> <p>8       <b>A. Possibly two times. I don't recall doing it</b> 9       <b>in -- several, and I -- I know it wasn't just once. I</b> 10       <b>would say maybe two or three times.</b></p> <p>11       Q. What was the surface that you guys were on?</p> <p>12       Was that a wood surface? metal surface? cement surface?</p> <p>13       What kind of surface was in that cell?</p> <p>14       <b>A. It was actually outside the cell. It was tile.</b></p> <p>15       Q. Tile. Okay.</p> <p>16       Did you know whether there was any blood on the 17       tile afterwards?</p> <p>18       <b>A. I don't recall seeing any blood.</b></p> <p>19       Q. You used a term -- I think Mr. Haddad asked you 20       a question about when the -- when Mr. Bricker raised 21       questions with you, and did you use the term "complicit," 22       or not?</p> <p>23       <b>A. "Complacent."</b></p> <p>24       Q. Was it "complacent"?</p> <p>25       <b>A. Yes, sir.</b></p>	<p>185</p> <p>1       present?</p> <p>2       <b>A. I know that Deputy Livenchuk. I think Deputy</b> 3       <b>Madigan arrived. Deputy Sobrero. Deputy Will Haas</b> 4       <b>(phonetic), I think, came.</b></p> <p>5       Q. Did you see any one of these officers strike 6       Mr. Harrison?</p> <p>7       <b>A. No, I did not, sir.</b></p> <p>8       Q. When you were -- so, essentially, you saw 9       officers striking Mr. Harrison, but you don't know who 10       they were?</p> <p>11       <b>A. Correct.</b></p> <p>12       Q. Now, when you were laying across the body of 13       Mr. Harrison and the other officers arrived before you 14       were removed from the body, did you see any of these -- 15       any officers strike Mr. Harrison?</p> <p>16       <b>A. No, sir, I did not.</b></p> <p>17       Q. So when you were laying across him, you were 18       then -- you were striking -- when you had struck him for 19       whatever period of time you did, you then get removed and 20       then the other officers started to strike?</p> <p>21       <b>A. I got removed --</b></p> <p>22       Q. Right.</p> <p>23       <b>A. -- and I recall -- because he was thrashing</b> 24       <b>around, I recall verbal words communicating he was not</b> 25       <b>following verbal orders, and they had gave him -- I recall</b></p>
<p>186</p> <p>1       Q. He said you were too complacent or complicit?</p> <p>2       <b>A. Complacent.</b></p> <p>3       Q. Meaning you were not aggressive enough?</p> <p>4       <b>A. My understanding of what he was telling me is</b> 5       <b>that I was just -- I didn't -- from what I can understand</b> 6       <b>what he was kind of telling me or trying to say was that I</b> 7       <b>had gotten in this mode of just everyday motions of in and</b> 8       <b>out of the housing unit, doing the same thing over and</b> 9       <b>over again, getting to a mode of complacency.</b></p> <p>10       Q. Okay. And the officers that you had mentioned 11       as the two you remember being there, one starts with a "V" 12       and the other one was Swetnam?</p> <p>13       <b>A. Swetnam, yes, sir.</b></p> <p>14       Q. What was the other officer's name?</p> <p>15       <b>A. I believe it was Valverde.</b></p> <p>16       Q. Did you see either one of them strike 17       Mr. Harrison?</p> <p>18       <b>A. No, sir.</b></p> <p>19       Q. They were the first officers there?</p> <p>20       <b>A. From what I read. Unfortunately, because of my</b> 21       <b>position, all I saw were boots.</b></p> <p>22       Q. Did you see those boots moving in a striking 23       fashion on Mr. Harrison?</p> <p>24       <b>A. No, sir.</b></p> <p>25       Q. So who were the other officers who were</p>	<p>188</p> <p>1       <b>specifically there was a strike to the back.</b></p> <p>2       Q. When you said that he was not following verbal 3       orders, haven't you been trained that when you're dealing 4       with a person who is emotionally or mentally in trouble or 5       out of touch with reality, if you will, that they don't 6       often follow instructions?</p> <p>7       MR. ANDRADA: Objection. Vague and ambiguous, 8       overly broad.</p> <p>9       But go ahead and answer the question.</p> <p>10       THE WITNESS: At times.</p> <p>11       MR. BURRIS: Q. You're taught that, right?</p> <p>12       <b>A. At times it can escalate to that.</b></p> <p>13       Q. Well, aren't you taught that you are supposed 14       to deescalate the situation?</p> <p>15       MR. ANDRADA: Vague and ambiguous, overly broad.</p> <p>16       MR. BURRIS: Q. Even when you're dealing with a 17       person who is emotionally and mentally in trouble?</p> <p>18       MR. ANDRADA: Still vague and ambiguous.</p> <p>19       But go ahead.</p> <p>20       THE WITNESS: We're taught to mitigate the -- any 21       kind of aggressive manner and a threat, try to get them 22       secured. Once that person is secured, at that point it 23       would -- it would be assumed that he's in handcuffs; he's 24       secured.</p> <p>25       MR. BURRIS: Q. When you were in contact,</p>

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<p style="text-align: right;">189</p> <p>1 physically aggressively punching, slapping Mr. Harrison 2 while he was on the ground on the floor and you're on top 3 of him, what was he saying to you, if anything? 4       <b>A. I don't even recall. I don't recall because</b> 5       <b>everything was going around so fast. I just know that he</b> 6       <b>was trying to -- he was thrashing around. He was trying</b> 7       <b>to -- I recall him kind of grimacing, like he was trying</b> 8       <b>to tense up, what I would call break free from my -- my</b> 9       <b>my hold on him.</b></p> <p>10       Q. This is a person who you have -- now know is 11 having emotional problems. You are now on top of him and 12 you're punching him and slapping him. 13       Did it dawn on you that maybe he was not -- maybe 14 he thought you were the people with the gun? Never 15 thought about it? 16       MR. ANDRADA: Argumentative. 17       MR. BURRIS: I'll withdraw the question. It's 18 argumentative. 19       MR. ANDRADA: Thank you. 20       MR. BURRIS: Q. Is it your testimony that while 21 you were on top of Mr. Harrison and he was grimacing, that 22 he said, "I'll kick your ass," or words to that effect? 23       <b>A. He said something. He said something to me.</b> 24       Q. Is it fair to say you didn't tell anybody 25 that -- when you had your two interviews, that he said,</p>	<p style="text-align: right;">191</p> <p>1 term -- but he went back toward the wall, correct? 2       <b>A. Yeah. I mean...</b> 3       Q. Couldn't you have not closed the door at that 4 time? 5       <b>A. Not and keep an eye on him at the same time,</b> 6       <b>no.</b> 7       Q. Because you couldn't look through the door, the 8 window there? You couldn't see him? 9       <b>A. It wasn't that. I couldn't reach through under</b> 10       <b>the door at that time.</b> 11       Q. Could you have called -- do you guys have radio 12 communication? 13       <b>A. Yes, sir.</b> 14       Q. And that's, like, on your shoulder or 15 somewhere? 16       <b>A. Yes, sir.</b> 17       Q. In order to communicate, what do you have to 18 do? How do you -- if you want to communicate for 19 assistance, what do you do? 20       <b>A. Press the button and request --</b> 21       Q. So that's something you could have done as 22 well? 23       <b>A. Yes.</b> 24       Q. When you used your Taser, the first time you 25 used it, the prong goes out, correct?</p>
<p style="text-align: right;">190</p> <p>1 I'll -- Mr. Harrison said, "I'll kick your ass"? 2       <b>A. I don't really recall --</b> 3       Q. Reading that, do you? 4       <b>A. I don't recall.</b> 5       Q. All right. Before -- when you pushed 6 Mr. Harrison away and back towards the wall there, you 7 were in the doorway? 8       <b>A. I was just outside the doorway.</b> 9       Q. Now, were you in the position to close that 10 door? 11       <b>A. Not in particular, no.</b> 12       Q. Why? 13       <b>A. The door was swung all the way open when I</b> 14       <b>had --</b> 15       Q. Pushed him in? 16       <b>A. Well, nudged him in, tried to gain some</b> 17       <b>distance at that point. My goal was to keep an eye on him</b> 18       <b>at that point.</b> 19       Q. So -- 20       MR. ANDRADA: Wait a minute. Excuse me. 21       Did you finish your answer? 22       THE WITNESS: Yes. 23       MR. ANDRADA: All right. 24       MR. BURRIS: Q. All right. So you could have -- 25 are you saying that when you nudged him, to use your</p>	<p style="text-align: right;">192</p> <p>1       <b>A. Yes, sir.</b> 2       Q. And it goes for five seconds' application, 3 right? 4       <b>A. Yes, sir.</b> 5       Q. Now, the records reflect -- now, can you do 6 another application while it's still connected? 7       <b>A. After the five seconds?</b> 8       Q. Yes. 9       <b>A. Yes, you can.</b> 10       Q. If you then want to do a drive-stun, if you 11 will, what do you have to do differently? 12       <b>A. Put the Taser -- connect it right against the</b> 13       <b>skin.</b> 14       Q. Can you do that even if the prong is still out? 15       <b>A. That I don't know.</b> 16       Q. Did the prongs come back? 17       <b>A. The prongs did not come back. At the time when</b> 18       <b>I drive-stunned him --</b> 19       Q. Yeah. 20       <b>A. -- I wasn't 100 percent sure whether or not</b> 21       <b>both prongs were still attached to him, because we were on</b> 22       <b>the ground at that time, and I don't know if -- I couldn't</b> 23       <b>see, because of his body position, where those prongs</b> 24       <b>were.</b> 25       Q. So when you drive-stun, does the prongs -- do</p>

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<p style="text-align: right;">193</p> <p>1 you have to drive-stun at the location where the prongs 2 are or can you just take the Taser and stick it next to a 3 person's body?</p> <p>4 <b>A. I believe you can take it -- I think you can</b> 5 <b>take it right up to the body and be able to do it.</b></p> <p>6 Q. And it registers as well?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. Okay. Did you know how many times the other 9 officers, in fact, had used the applications that they 10 used?</p> <p>11 <b>A. Are you referring to the Taser, sir?</b></p> <p>12 Q. Yes.</p> <p>13 <b>A. I know of hearing a Taser go off once, and it</b> 14 <b>was somebody else.</b></p> <p>15 Q. Did you say to anyone to use the Taser? When 16 you stood up, now you're standing to the side, does that 17 occur before or after you hear this other Taser going off?</p> <p>18 <b>A. I want to say it's after. I'm not 100 percent</b> 19 <b>sure on that, to be honest with you.</b></p> <p>20 Q. In any event, there wasn't any discussion 21 amongst any of you or a discussion you had with anyone 22 that you had used the Taser on at least once, maybe twice 23 before this Taser is used by another person, correct?</p> <p>24 <b>A. I don't recall. I told my sergeant that I had</b> 25 <b>tased him, but I don't recall saying anything to anybody</b></p>	<p style="text-align: right;">195</p> <p>1 Q. Do they have the fingers cut off, or do they go 2 all the way down?</p> <p>3 <b>A. They go all the way down, sir.</b></p> <p>4 Q. Do you use those gloves in your work?</p> <p>5 <b>A. Now or?</b></p> <p>6 Q. Did you at the time?</p> <p>7 <b>A. Certain things I would deal with, yeah.</b></p> <p>8 Q. Like what? What did you have the gloves for?</p> <p>9 <b>A. If I had to go search somebody's cell or when</b> 10 <b>we were doing a shakedown or if I was dealing with anybody</b> 11 <b>that had blood all over them, kind of something that I</b> 12 <b>could use as some sort of barrier. If I couldn't get</b> 13 <b>proper gloves, I had my own.</b></p> <p>14 Q. Why not just carry some disposable latex gloves 15 with you for that purpose?</p> <p>16 <b>A. Latex gloves don't always -- I mean, they're</b> 17 <b>available. I usually always have my own set of -- I have</b> 18 <b>my own pair of gloves I use for searches and that kind of</b> 19 <b>stuff.</b></p> <p>20 Q. Have you ever had to clean those gloves from 21 blood or something that got on them?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. And what did you do, just put them in the 24 faucet and clean them?</p> <p>25 <b>A. No. PHS has a spray that they use, like a</b></p>
<p style="text-align: right;">194</p> <p>1 <b>else, because they -- they saw the probe wires.</b></p> <p>2 Q. Was your sergeant present when these other 3 officers were there?</p> <p>4 <b>A. He came shortly after -- shortly after, about</b> 5 <b>three or four of them showed up.</b></p> <p>6 Q. Did they come before or after the officers were 7 still striking Mr. Harrison?</p> <p>8 <b>A. I believe he was there during the -- while they</b> 9 <b>were trying to...</b></p> <p>10 Q. Who was the sergeant?</p> <p>11 <b>A. It was Sergeant Antriago.</b></p> <p>12 Q. Did he give any instructions to anyone while he 13 was there?</p> <p>14 <b>A. I don't recall that, sir.</b></p> <p>15 MR. BURRIS: Thank you. I have no further 16 questions.</p> <p>17 MR. HADDAD: Just a couple more.</p> <p>18 FURTHER EXAMINATION BY MR. HADDAD</p> <p>19 MR. HADDAD: Q. Can you describe the gloves that 20 you had with you at that time?</p> <p>21 <b>A. Yeah. There a thin mesh 511 glove.</b></p> <p>22 Q. What material are they made of? Leather?</p> <p>23 <b>A. No. Part of it is leather. The part on the</b> 24 <b>top here is more nylon. The bottom half is leather. The</b> 25 <b>top was more nylon.</b></p>	<p style="text-align: right;">196</p> <p>1 <b>disinfectant spray I would spray down.</b></p> <p>2 Q. Have you ever punched anybody while wearing 3 those gloves?</p> <p>4 <b>A. I don't recall -- I don't think so, and I can't</b> 5 <b>recall whether or not I had those gloves on during this</b> 6 <b>incident.</b></p> <p>7 Q. Did you see any deputies during this incident 8 wearing any type of glove?</p> <p>9 <b>A. I wasn't paying attention to that.</b></p> <p>10 Q. Now, I think you've already estimated that the 11 length of the cell from the back wall to the door is about 12 8 or 9 feet. Is that right?</p> <p>13 <b>A. Roughly, yes, sir.</b></p> <p>14 Q. And the length of Taser wires, I believe, is 12 15 and a half feet, right?</p> <p>16 <b>A. They'll shoot up to 21 feet.</b></p> <p>17 Q. 21 feet?</p> <p>18 <b>A. Yes, sir.</b></p> <p>19 Q. So when you're initially tasing Martin Harrison 20 and he falls back on that bench along the back wall, 21 you're still standing just outside the door, right?</p> <p>22 <b>A. Yes, sir.</b></p> <p>23 Q. And so, at most, that's about 10 feet, right?</p> <p>24 <b>A. Give or take, yes.</b></p> <p>25 Q. You had at least 10 feet of slack in those</p>

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<p>197</p> <p>1 wires.</p> <p>2 Why -- when you were initially tasing him for five</p> <p>3 seconds, why didn't you just step back and shut the door</p> <p>4 at that point and then get some backup?</p> <p>5 <b>A. Because, at that point, I didn't want to take</b></p> <p>6 <b>my eyes off of him.</b></p> <p>7 Q. But he's being tased on the back wall.</p> <p>8 Was there something you thought he would be able to</p> <p>9 do in the second or split second it would take you to grab</p> <p>10 the door and slam it shut?</p> <p>11 MR. ANDRADA: It's argumentative as phrased.</p> <p>12 But go ahead.</p> <p>13 THE WITNESS: Absolutely. Because as he's getting</p> <p>14 tased, right after I tased him, he gets right back up and</p> <p>15 charges me. Me, personally, I focused on him. Within --</p> <p>16 I would say within 15 seconds of being tased, he got right</p> <p>17 back up and started charging at me.</p> <p>18 MR. HADDAD: Q. So the initial tasing cycle was</p> <p>19 five seconds, right?</p> <p>20 <b>A. That's correct.</b></p> <p>21 Q. You're saying that he charged at you after only</p> <p>22 two seconds of the tasing had happened?</p> <p>23 <b>A. While that tasing was going on, yes, sir.</b></p> <p>24 Q. And he just charged at you from the back of the</p> <p>25 wall all the way to where you were?</p>	<p>199</p> <p>1 STATE OF CALIFORNIA )</p> <p>2 ) ss</p> <p>3 COUNTY OF ALAMEDA )</p> <p>4</p> <p>5 I, Joan Grier, hereby certify that the witness in the</p> <p>6 foregoing deposition named</p> <p>7</p> <p>8 DEPUTY MATTHEW AHLF</p> <p>9</p> <p>10 was by me duly sworn to testify to the truth, the whole</p> <p>11 truth, and nothing but the truth in the within-entitled</p> <p>12 cause; that said deposition was taken at the time and</p> <p>13 place herein named; that the testimony of said witness</p> <p>14 was reported by me, a certified shorthand reporter and a</p> <p>15 disinterested person, and thereafter transcribed into</p> <p>16 typewriting.</p> <p>17</p> <p>18 And I further certify that I am not of counsel or</p> <p>19 attorney for either or any of the parties to said</p> <p>20 deposition, nor in any way interested in the outcome of</p> <p>21 the cause named in said caption.</p> <p>22</p> <p>23 Date _____</p> <p>24 Joan Grier, C.S.R.</p> <p>25</p>
<p>198</p> <p>1 <b>A. Yes, sir.</b></p> <p>2 Q. And it's your testimony that you did not deploy</p> <p>3 a second five-second discharge of the Taser almost</p> <p>4 immediately after the first one?</p> <p>5 <b>A. My testimony is that I don't recall that. I</b></p> <p>6 <b>don't recall ever doing that.</b></p> <p>7 Q. So because he charged at you after the first</p> <p>8 two seconds of the Taser deployment, you had no other</p> <p>9 option other than what you ultimately ended up doing. Is</p> <p>10 that correct?</p> <p>11 <b>A. Split decision, yes.</b></p> <p>12 Q. That was because he charged you even before the</p> <p>13 first Taser application was finished, correct?</p> <p>14 <b>A. Correct.</b></p> <p>15 MR. HADDAD: That's all I've got. Thank you.</p> <p>16 MR. ANDRADA: Okay. Thank you very much.</p> <p>17 (Deposition concluded at 6:10 p.m.)</p> <p>18 ---oo---</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>200</p> <p>1 June 20, 2012</p> <p>2</p> <p>3</p> <p>4 DEPUTY MATTHEW AHLF</p> <p>5 c/o J. RANDALL ANDRADA</p> <p>6 ANDRADA &amp; ASSOCIATES</p> <p>7 180 Grand Avenue, Suite 225</p> <p>8 Oakland, California 94612</p> <p>9</p> <p>10 RE: Harrison vs. County of Alameda</p> <p>11</p> <p>12 Dear Deputy Ahlf:</p> <p>13 Your deposition transcript has been prepared and is</p> <p>14 available at our office for reading, correcting and</p> <p>15 signing, and shall remain so available for 35 days.</p> <p>16 Should you wish to review your deposition transcript,</p> <p>17 please contact our office for an appointment.</p> <p>18</p> <p>19 Sincerely,</p> <p>20</p> <p>21</p> <p>22</p> <p>23 Joan Grier, C.S.R.</p> <p>24</p> <p>25 cc: All counsel</p>

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